



☎ 817-916-0020

✉ forms@americanpecan.com

📍 3880 Hulen St., Suite 650, Fort Worth, TX 76107

Handler Packet for the 2024 Crop Year

September 1, 2024 – August 31, 2025

The American Pecan Council (APC) is governed by the Federal Marketing Order for pecans grown in Alabama, Arkansas, Arizona, California, Florida, Georgia, Kansas, Louisiana, Missouri, Mississippi, North Carolina, New Mexico, Oklahoma, South Carolina, and Texas. The order provides authority to collect data from handlers of pecans and conduct research and promotion activities. All handlers of pecans are under the jurisdiction of the Marketing Order and are required to comply with the Marketing Order Rules & Regulations. You are receiving this packet because your company has been identified as a handler of pecans according to §986.20 in the Code of Federal Regulations.

Each handler who first handles inshell pecans shall pay assessments to the Council. Handlers may avail themselves of an inter-handler transfer, as provided for in §986.62, Inter-handler transfers. Handler may transfer the responsibility of paying the assessment to the receiving handler as per § 986.162 Inter-handler transfers however all handlers must continue to report their inventory and shipments on Form 1 and any other applicable forms. Beginning October 1, 2021, assessment rates for handled product is \$0.01 per pound for pecans classified as improved, \$0.00 per pound for pecans classified as native and seedling, and \$0.00 per pound for pecans classified as substandard. Assessments are due upon the completion of the monthly reporting forms. Please send all assessments to the address below.

American Pecan Council P.O. Box 100398 Fort Worth, Texas 76185 Email: forms@americanpecan.com Fax: 866-232-0085

Please find enclosed the following items for the 2024 Crop Year form September 1, 2024– August 31, 2025:

- 1) Schedule of Handler Reports & Assessments Due – 2024 Crop Year
- 2) Reporting Forms Package for the 2024 Crop Year
- 3) Handler Reporting Portal Quick Start Guide
- 4) Handler Communication Documents (Due to Council office by November 1, 2024)
- 5) Handler Acknowledgment Letter
- 6) Company Information Release Document
- 7) Code of Federal Regulation
- 8) American Pecan Council Bylaws
- 9) Organic Handler Application

If you have any questions regarding the enclosed materials, please contact the American Pecan Council office at 817-916-0020 or you may contact us by email, forms@americanpecan.com

Sincerely,
APC Team



☎ 817-916-0020

✉ forms@americanpecan.com

📍 3880 Hulen St., Suite 650, Fort Worth, TX 76107

Schedule of Handler Reports & Assessments Due

September 1, 2024 – August 31, 2025

The American Pecan Council (APC) administers the Federal Marketing Order for pecans No. 986, and requires handlers to submit reports on pecans received, pecans purchased outside the United States, shipments and inventory of pecans, pecans exported by country of destination, and pecans exported for shelling and returned to the United States. REPORTING FORMS 1, 2, 3 are to be delivered to the American Pecan Council no later than the 10th day of the month. If the 10th lands on a weekend, the monthly reporting forms will be due the following Monday. Handlers will submit FORM 4 on an annual basis with each company they do business with. Year-End Inventory Report – FORM 5 is due in the portal no later than September 10, 2025.

Reporting Forms Packages will be submitted through the electronic reporting platform. All assessment checks should be mailed to the address below.

American Pecan Council P.O. Box 100398, Fort Worth, Texas 76185

Please contact the Council office if you need assistance completing the reporting forms. The reporting forms, which are included in the handler packet, are to be received from each handler by the deadlines outlined below. All assessments are calculated on FORM 1 and are due upon submission on a monthly basis.



☎ 817-916-0020

✉ forms@americanpecan.com

📍 3880 Hulen St., Suite 650, Fort Worth, TX 76107

Schedule of Handler Reports & Assessments Due

September 1, 2024 – August 31, 2025

2024

Reporting Period

September 2024 – Form 1,2,3
October 2024 – Form 1, 2, 3
November 2024 – Form 1, 2, 3
December 2024 – Form 1, 2, 3

Report/Payment Deadline

October– 10th
November– 12th
December– 10th
January– 10th

2025

Reporting Period

January 2025 – Form 1, 2, 3
February 2025 – Form 1, 2, 3
March 2025 – Form 1, 2, 3
April 2025 – Form 1, 2, 3
May 2025 – Form 1, 2, 3
June 2025 – Form 1, 2, 3
July 2025 – Form 1, 2, 3
August 2025 – Form 1, 2, 3, 5

Report/Payment Deadline

February–10th
March– 10th
April– 10th
May– 12th
June– 10th
July– 10th
August– 11th
September– 10th



☎ 817-916-0020

✉ forms@americanpecan.com

📍 3880 Hulen St., Suite 650, Fort Worth, TX 76107

Reporting Forms Package for the 2024 Crop Year

September 1, 2024 – August 31, 2025

Below is an outline of the reporting forms package for the 2024 crop year. These reporting forms will be submitted through the electronic platform.

Reporting Form 1

- Part 1 – U.S. Pecans Received For Your Own Account
- Part 2 – Report of Shipments and Inventory on Hand

Reporting Form 2

- Part 1 – Pecans Purchased Outside of the United States
- Part 2 – Inshell Pecans Exported to Mexico For Shelling and Returned to the United States as Shelled Meats

Reporting Form 3

- Exports by Country of Destination

Reporting Form 4 – One per company, per crop year

- Annual Agreement of Inter-Handler Transfers of Pecan

Reporting Form 5

- Report of Year-End Inventory

If you need any assistance completing and/or submitting the reporting forms. Please contact the Council office at any time.

American Pecan Council
P. O. Box 100398
Fort Worth, Texas 76185
(817) 916-0020
forms@americanpecan.com

SUMMARY REPORT U.S. PECANS RECEIVED FOR YOUR OWN ACCOUNT APC Form 1 - Instructions



Section 7 CFR 986.177 and 986.178 of the Pecan Marketing Order requires each Handler to tabulate their Inshell receipts (by weight) by Variety and to report on pecan shipments and inventory on hand of inshell and shelled meats and record this information on APC Form 1. The completed form is to be delivered to the American Pecan Council (APC) *no later than the **tenth** day of the month*. The Council staff will compile the data and will subsequently provide industry-wide reports to each Handler and the public.

Please note:

You need only insert data in the blank WHITE cells. The APC staff will complete any information in the 'SHADED' cells. If completing the form electronically, once the information is entered, the column totals, and the amount of the assessment owed, will be calculated automatically. If completing the form by hand, the amounts you provide, and the assessment owed, will be calculated by the APC staff.

If there are no changes since the previous month submission, place an 'X' in the appropriate space at the bottom of 'Reporting Period' column, then follow the instructions below for "UPON COMPLETION". You do not need to complete any other form for this "Reporting Period"

The following are instructions for completing APC Form 1 - Summary Report:

Date Completed: Insert the date the report is being completed in the blank provided at the upper left of the form

Reporting Period: Fill in the month and year.

Current Period Total (Inshell Basis): Insert the the total weight of US Inshell received during the current reporting period in the blank white cell next to the appropriate variety.

Shipments: Total Pecans Shipped: In the appropriate white cells, enter the total amount of Shelled Meats and Inshell shipped during the month to trade sources as well as any Shelled Meats or Inshell shipped to or from Handlers. This figure should include all pecans, not just those of US origin.

Total Pecans in Inventory: Enter the total amount of Shelled Meats currently held in inventory at the end of the Reporting Period. Enter the total amount of inshell currently held in inventory at the end of the month. Include all inventory owned whether in US or overseas storage facilities.

Commitments to Ship: Enter the amount of Pecans contracted, but not yet delivered; segregated by Shelled meats and Inshell, Domestic and Export, including any product contracted to ship to another Handler, in the appropriate white cell. Deduct Contracts with Handlers by entering contracts to purchase from other handlers, segregated by Shelled Meats and Inshell, in the appropriate white cell.

Other Forms Needed this Period: Please review to see if you need to fill out other forms as mentioned in Part E

UPON COMPLETION: Read the Certification statement at the bottom of the form and write in/type the Handler/Company name, the name of individual completing the form and the Handler Number. Then sign in the space provided and send to:

AMERICAN PECAN COUNCIL: Fax (866) 232-0085 or e-mail to forms@americanpecan.com.

§986.61 Confidential information: All reports and records submitted by handlers to the Council, which include data or information constituting a trade secret or disclosing the trade position, or financial condition or business operations of the handler, shall be kept in the custody of one or more employees of the Council and shall be disclosed to no person except the Secretary of Agriculture.

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0581-0307. The time required to complete this information collection is estimated to average 20 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotope, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at http://www.ascr.usda.gov/complaint_filing_cust.html and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by: (1) mail: U.S. Department of Agriculture Office of the Assistant Secretary for Civil Rights 1400 Independence Avenue, SW Washington, D.C. 20250- 9410; (2) fax: (202) 690-7442; or (3) email: program.intake@usda.gov. USDA is an equal opportunity provider, employer, and lender.

APC FORM 1Reporting Period _____
Month/ Year

Handler # _____

This report is submitted pursuant to 7 CFR 986.177, 986.178 and is subject to audit verification by the American Pecan Council (7 CFR 986.79)

PART I: U.S. PECANS RECEIVED FOR YOUR OWN ACCOUNT**A) Product Paying Assessment On**

PECAN Varieties	Assessed Rate	Current Period Total Pounds (Inshell Basis)	Amount Due
IMPROVED	\$ 0.01		\$0.00
NATIVE/SEEDLING	\$0.00		\$0.00
SUBSTANDARD	\$0.00		\$0.00
Totals			\$0.00

B) Product Received With No Assessment Due

	Current Period Total Pounds
INSHELL	
SHELLED MEATS	
Total (Inshell Basis)	

PART II: TOTAL SHIPMENTS FOR REPORTING PERIOD**A) SHIPMENTS OF SHELLED MEATS only**

SHIPMENTS	CURRENT PERIOD	PRIOR PERIOD YTD	TOTAL YEAR-TO-DATE
Domestic Shipped - Shelled Meats			0
Export Shipped - Shelled Meats	+	=	0
Inter-Handler Transfers Shipped - Shelled Meats			0)
Subtotal Shipments: SHELLED MEATS	0	0	0

B) SHIPMENTS OF INSHELL only

SHIPMENTS	CURRENT PERIOD	PRIOR PERIOD YTD	TOTAL YEAR-TO-DATE
Domestic Shipped - Inshell			0
Export Shipped - Inshell	+	=	0
Inter-handler Transfers Shipped - Inshell			0
Subtotal Shipments: INSHELL		0	0
Total Shipments (Inshell Basis)	+	0 =	0

C) TOTAL PECANS IN INVENTORY (WHETHER COMMITTED OR NOT):

Shelled Meats	
Inshell	
Total - Inshell Basis	

E) OTHER FORMS NEEDED THIS PERIOD:

Did you purchase Pecans produced OUTSIDE of the United States? YES NO (Circle One)
If yes, please fill out Part I of Form 2.

Did you export pecans to Mexico for shelling and return to the United States as shelled meats? YES NO (Circle One)
If yes, please fill out Part II of Form 2.

Did you export pecans to another country? YES NO (Circle One)
If yes, please fill out Form 3.

D) COMMITMENTS TO SHIP TO TRADE SOURCES, RETAIL, AND OTHER HANDLERS

Domestic-Shelled Meats	
Export-Shelled Meats	
Subtotal-Meats	0
Domestic-Inshell	
Export-Inshell	
Subtotal-Inshell	0

Deduct contracts to purchase from other handlers.

Shelled Meats	()
Inshell	()

Total Commitments - Inshell Basis **0**

[] Check here if there are no changes from the previous period figures, then complete the bottom portion of the form and submit to the American Pecan Council. No other forms are required to be submitted for this Reporting Period.

I, hereby, certify to the AMERICAN PECAN COUNCIL and to the U.S. Secretary of Agriculture that the information contained in this report is complete and correct.

HANDLER/COMPANY: _____

Signature: _____

Handler Address: _____

American Pecan Council
P. O. Box 100398
Fort Worth, Texas 76185
(817) 916-0020
forms@americanpecan.com



PECANS PURCHASED OUTSIDE OF THE UNITED STATES

APC Form 2 - Instructions

This report is submitted pursuant to 7 CFR 986.177 and 7 CFR 986.178 and is subject to audit verification by the American Pecan Council (7 CFR 986.79).

Please note: The completed form must be delivered to the American Pecan Council no later than the **tenth** day of the month.

You need only insert data in the blank WHITE cells. The APC staff will complete any information in the 'SHADED' cells. If completing the form electronically, once the information is entered, the column totals will be calculated automatically. If completing the form by hand, the amounts you provide will be added to the data submitted in the previous period and totaled by the APC staff.

The following are instructions for completing APC Form 2:

Month: Enter the month being reported upon. **Handler Number:** Enter the Handler Number.

PART I- Pecans Purchased Outside of the United States:

1. Enter the Month the purchased Pecans entered the United States.
2. Enter the Country of Origin for the Pecans entering the United States.
3. Enter the amount of Inshell, or Shelled Meats, in pounds, entering the United States.
4. Report the Variety of any Inshell Pecans entering the United States.

PART II- Inshell Pecans Exported to Mexico for Shelling and Returned to the United States as Shelled Meats

1. Enter the month the Inshell was shipped to Mexico
2. Enter the amount of Inshell, in pounds, shipped to Mexico for processing
3. Enter the month that the Shelled meats were returned to the United States
4. Enter the amount of Shelled Meats, in pounds, that were returned to the United States

UPON COMPLETION: Read the Certification statement at the bottom of the form and write in/type the Handler/Company name. Then sign and date the form in the spaces provided and fax or email to:

AMERICAN PECAN COUNCIL: Fax (866) 232-0085 or e-mail to forms@americanpecan.com.

§986.81 Confidential information:

All reports and records submitted by handlers to the Council staff, which include data or information constituting a trade secret or disclosing the trade position, or financial condition or business operations of the handler, shall be kept in the custody of one or more employees of the Council and shall be disclosed to no person except the Secretary of Agriculture.

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0581-0371. The time required to complete this information collection is estimated to average 20 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

APC FORM 2

Month: _____ Handler Number: _____

Part I: PECANS PURCHASED OUTSIDE THE UNITED STATES

This report is submitted pursuant to 7 CFR 986.177 and is subject to audit verification by the American Pecan Council (7 CFR 986.79).

Month Imported	Country of Origin	Shelled Meats (lbs)*		Inshell (lbs)	Inshell Variety		Total (Inshell Basis)
			+			=	0.00
			+			=	0.00
			+			=	0.00
			+			=	0.00
			+			=	0.00
			+			=	0.00
			+			=	0.00
			+			=	0.00
TOTALS		0	+	0		=	0.00

NOTE: Shelled Meats are converted to inshell using a yield of 50% (multiplying the shelled meats by '2'). The form automatically makes this calculation.*Part II: INSHELL PECANS EXPORTED TO MEXICO FOR SHELLING AND RETURNED TO THE UNITED STATES AS SHELLED MEATS**

This report is submitted pursuant to 7 CFR 986.178 and is subject to audit verification by the American Pecan Council (7 CFR 986.79).

INSHELL exported to Mexico for Shelling				
Date INSHELL	Current Period (lbs)		Prior Period YTD (lbs)	Total Year to Date (lbs)
		+	=	0
		+	=	0
		+	=	0
SHELLED MEATS, produced from U.S. INSHELL, being returned to the U.S.				
Date SHELLED MEATS imported	Current Period		Prior Period YTD	Total Year to Date
		+	=	0
		+	=	0
		+	=	0

(Name of Handler/Company): _____

(Handler Address): _____

(Signature) _____

Date _____

Certification Statement: The making of any false statements or representations in any matter within the jurisdiction of any agency of the United States, knowing it to be false, is a violation of title 18, section 1001, of the United States Code, which provides for a penalty of a fine for individuals and for organizations or imprisonment, or both.

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotope, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English. To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at http://www.ascr.usda.gov/complaint_filing_cust.html and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by: (1) mail: U.S. Department of Agriculture Office of the Assistant Secretary for Civil Rights 1400 Independence Avenue, SW Washington, D.C. 20250-9410; (2) fax: (202) 690-7442; or (3) email: program.intake@usda.gov. USDA is an equal opportunity provider, employer, and lender.

Upon completion, fax or email form to American Pecan Council: Fax - (866) 232-0085; Email - forms@americanpecan.com.

American Pecan Council
P. O. Box 100398
Fort Worth, Texas 76185
(817) 916-0020
forms@americanpecan.com



EXPORTS BY COUNTRY OF DESTINATION

APC Form 3 - Instructions

This report is submitted pursuant to 7 CFR 986.178 and is subject to audit verification by the American Pecan Council (7 CFR 986.79)

The completed form must be delivered to the American Pecan Council no later than the **tenth** day of the month.

Please note:

You need only insert data in the blank WHITE cells. The APC staff will complete any information in the 'SHADED' cells. If completing the form electronically, once the information is entered, the column totals will be calculated automatically. If completing the form by hand, the amounts you provide will be added to the data submitted in the previous period and totaled by the APC staff.

The following are instructions for completing APC Form 3 - Exports by Country of Destination

Month: Enter the Month being reported upon.

Handler Number: Enter the Handler Number

Current Period - Shelled / Inshell / Substandard, Exported

Report the total quantity shipped during the month to each applicable foreign country - by product type (Shelled / Inshell / Substandard). Report all pecans shipped, not just pecans of US origin. If the country is not listed on page 1 of the form, enter the name of the country on page 2 along with the amounts of each product shipped to that country.

Unless the pecans are shipped to a warehouse overseas where ownership of the pecans is retained by the reporting Handler, report the country of first entry. If ownership is retained, report the country of destination once ownership changes hands.

UPON COMPLETION: Read the Certification statement at the bottom of the form and write in/type the Handler/ Company name, the name of individual completing the form and the Handler Number. Then sign in the space provided and send to:

AMERICAN PECAN COUNCIL: Fax (866) 232-0085 or e-mail to forms@americanpecan.com.

§986.81 Confidential information: All reports and records submitted by handlers to the Council staff, which include data or information constituting a trade secret or disclosing the trade position, or financial condition or business operations of the handler, shall be kept in the custody of one or more employees of the Council and shall be disclosed to no person except the Secretary of Agriculture.

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0581-0307. The time required to complete this information collection is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Certification Statement: The making of any false statements or representations in any matter within the jurisdiction of any agency of the United States, knowing it to be false, is a violation of title 18, section 1001, of the United States Code, which provides for a penalty of a fine for individuals and for organizations or imprisonment, or both.

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at http://www.ascr.usda.gov/complaint_filing_cust.html and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by: (1) mail: U.S. Department of Agriculture Office of the Assistant Secretary for Civil Rights 1400 Independence Avenue, SW Washington, D.C. 20250-9410; (2) fax: (202) 690-7442; or (3) email: program.intake@usda.gov. USDA is an equal opportunity provider, employer, and lender.

EXPORTS BY COUNTRY OF DESTINATION

OMB No. 0581-0307

This report is submitted pursuant to 7 CFR 986.178 and is subject to audit verification by the American Pecan Council (7 CFR 986.79)

Month _____ Handler Number _____

	Destination	Current Period Shelled Meats (lbs)	Current Period Inshell (lbs)	Current Period Sub-Standard (lbs)	Current Period TOTAL (lbs))	Previous Period Year-to-Date (lbs)	Year-to-Date TOTAL (lbs)
1	Algeria				0		0
2	Australia				0		0
3	Belgium				0		0
4	Canada				0		0
5	China				0		0
6	Czech Republic				0		0
7	Denmark				0		0
8	Egypt				0		0
9	France				0		0
10	Germany				0		0
11	Greece				0		0
12	Hong Kong				0		0
13	India				0		0
14	Israel				0		0
15	Italy				0		0
16	Japan				0		0
17	Jordan				0		0
18	Lebanon				0		0
19	Malaysia				0		0
20	Mexico				0		0
21	Netherlands				0		0
22	Russia				0		0
23	Saudi Arabia				0		0
24	Singapore				0		0
25	South Korea				0		0
26	Spain				0		0
27	Sweden				0		0
28	Switzerland				0		0
29	Taiwan				0		0
30	Turkey				0		0
31	United Arab Emirates				0		0
32	United Kingdom				0		0
33	Vietnam				0		0
Subtotal From Pg.2		0	0	0	0	0	0
TOTAL		0	0	0	0	0	0

Handler/Company _____ Handler Address _____ Signature _____

Certification Statement: The making of any false statements or representations in any matter within the jurisdiction of any agency of the United States, knowing it to be false, is a violation of title 18, section 1001, of the United States Code, which provides for a penalty of a fine for individuals and for organizations or imprisonment, or both.

Upon completion send to: **American Pecan Council: Fax (866) 232-0085 or email to forms@americanpecan.com.**

OMB No. 0581-0307

Month _____ Handler Number _____

Handler/Company	Handler Address	Signature
-----------------	-----------------	-----------

Upon completion send to: **American Pecan Council: Fax (866) 232-0085 or email to forms@americanpecan.com.**
APC Form 3 (02/2018)

American Pecan Council
P. O. Box 100398
Fort Worth, Texas 76185
(817) 916-0020
forms@americanpecan.com



ANNUAL AGREEMENT OF INTER-HANDLER TRANSFER OF PECANS
Form 4 - Instructions

This report is submitted pursuant to 7 CFR 986.62 and reporting requirements 7 CFR 986.77 and 986.78, and is subject to audit verification by the American Pecan Council pursuant to 7 CFR 986.79. The completed form must be delivered to the American Pecan Council by the tenth day of the month following the first transfer between the two handlers. This form establishes an agreement between the two parties for the fiscal year which ends on September 30th. **Form 4 must be renewed each fiscal year.**

The following are instructions for completing Form 4 - Annual Agreement of Inter-Handler Transfer of Pecans

Month of Transfer: Enter the month pecans were first sold to receiving handler.

Handler Number: Leave blank, will be used by APC staff.

1. Enter the Fiscal Year in which this agreement will be effective.
2. Check the box indicating which handler is responsible for paying the assessment and reporting volume on Form 5.

UPON COMPLETION: Read the Certification Statement at the bottom of the form and write/type the Handler/Company name. Then sign and date the form in the spaces provided. Each party in the transfer is to retain a copy of the form then fax or email to **AMERICAN PECAN COUNCIL: Fax (866) 232-0085; Email - forms@americanpecan.com.**

§986.81 Confidential information: All reports and records submitted by handlers to the Council staff, which include data or information constituting a trade secret or disclosing the trade position, or financial condition or business operations of the handler, shall be kept in the custody of one or more employees of the Council and shall be disclosed to no person except the Secretary of Agriculture.

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is OMB 0581-0291. The time required to complete this information collection is estimated to average 10 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

ANNUAL AGREEMENT OF INTER-HANDLER TRANSFERS OF PECANS - FORM 4

This report is submitted pursuant to 7 CFR 986.62 and reporting requirements 986.77 and 986.78, and is subject to audit verification by the American Pecan Council pursuant to 7 CFR 986.79.

FISCAL YEAR _____

Handler Number: _____ (office use)

This is an annual report of pecans transferred between handlers designating which handler is responsible for submitting assessments to the APC for all transactions taking place between the two handlers and shall be submitted in compliance with the requirements of 7 CFR 986.62. **Completion of this form does not exempt either handler from reporting inventory on Form 5.** In executing this form, both handlers respectively certify to the Council, and to the U.S. Department of Agriculture, the correctness and completeness of their statements.

Who is responsible for paying the assessment and reporting volume on Form 7 (check appropriate box):

Transferring Handler ☐

Receiving Handler ☐

To be completed by Transferring Handler

To be completed by Receiving Handler

(Name of Handler/Company)

(Name of Handler/Company)

Signature

Signature

Date: _____

Date: _____

Certification Statement: The making of any false statements or representations in any matter within the jurisdiction of any agency of the United States, knowing it to be false, is a violation of title 18, section 1001, of the United States Code, which provides for a penalty of a fine for individuals and for organizations or imprisonment, or both.

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotope, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English. To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at http://www.ascr.usda.gov/complaint_filing_cust.html and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by: (1) mail: U.S. Department of Agriculture Office of the Assistant Secretary for Civil Rights 1400 Independence Avenue, SW Washington, D.C. 20250-9410; (2) fax: (202) 690-7442; or (3) email: program.intake@usda.gov. USDA is an equal opportunity provider, employer, and lender.

American Pecan Council
P.O. Box 100398
Fort Worth, Texas 76185
(817) 916-0020
forms@americanpecan.com



**YEAR-END INVENTORY,
PRICE PAID AND ANNUAL HANDLER REPORT
APC Form 5 – Instructions**

This report is submitted pursuant to 7 CFR 986.77 and 986.78 and is subject to audit verification by the American Pecan Council (7 CFR 986.79). The completed form and assessments due must be delivered to the American Pecan Council no later than September 10, 20____.

Please note: If completing electronically, you need only to insert data in the blank WHITE cells. Once the information is entered, the column totals will be calculated automatically. If completing the form by hand, please calculate the totals on the form. The following are instructions for completing APC Form 5 - Year-End Inventory Report:

Date Completed: Enter the date the form is being completed.

Fiscal Year: Enter the Fiscal Year being reported upon.

Pecans in Inventory and Handled Throughout the Year:

1. In the top section of the form, enter the total weight of inshell remaining in inventory, broken down by type (i.e. Improved, Natives and Substandard), as well as how much of the inventory is committed/contracted, but not shipped, for both export and domestic commitments. The "Total Pounds" figure includes all inshell in inventory REGARDLESS OF COUNTRY OF ORIGIN.
2. Enter the Average Price Paid for all inventory obtained during the fiscal year, by type, REGARDLESS OF COUNTRY OF ORIGIN.
3. In the second section of the form, enter the total amount of Shelled Meats remaining in inventory, as well as what is committed/contracted, but not shipped, for both export and domestic commitments. Enter the "Shell-Out/Yield per pound" based on the average yield for all inshell processed, REGARDLESS OF COUNTRY OF ORIGIN, whether Improved, Native or Substandard.
4. Enter the breakdown of the Shelled Meats remaining in inventory by halves, pieces and work in process (WIP). The total of the three must equal the total Shelled Meat figure. Enter how much of the Shelled Meats inventory has been contracted/committed, but not shipped, for both export and domestic commitments.
5. In the bottom section of the form, enter the total amount of US Inshell handled throughout the year broken down by type (i.e. Improved, Native and Substandard). This is the inshell that the handler paid the assessment or is still obligated to remit. IN THIS SECTION, REPORT ONLY U.S. INSHELL HANDLED.

UPON COMPLETION: Read the Certification statement at the bottom of the form and write in/type the Handler/Company name. Then sign and date the form in the spaces provided and fax or email it to the American Pecan Council: Fax - (866) 232-0085; Email - forms@americanpecan.com.

§986.81 Confidential information. All reports and records submitted by handlers to the Council staff, which include data or information constituting a trade secret or disclosing the trade position, or financial condition or business operations of the handler, shall be kept in the custody of one or more employees of the Council and shall be disclosed to no person except the Secretary of Agriculture.

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is OMB 0581-0291. The time required to complete this information collection is estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

YEAR END INVENTORY, PRICE PAID AND ANNUAL HANDLER REPORT - FORM 5

Date completed: _____

Fiscal Year: _____

Handler Number: _____ (office use)

INSHELL IN INVENTORY ON AUGUST 31					
Type of Inshell	**Fiscal Year - Average Price Paid (Per Pound)	Inshell in Inventory on August 31st	Committed, not shipped - Export	Committed, not shipped - Domestic	Uncommitted
Improved					
Natives/Seedlings					
Substandard					
Total Inshell					

**NOTE: "Average Price Paid (Per Pound)" is the average price paid for all inshell pecans purchased during the fiscal year whether for export, gift pack, retail and/or shelling, INCLUDING PECANS FROM OUTSIDE THE 15-STATE PRODUCTION AREA.

SHELLED MEATS IN INVENTORY ON AUGUST 31					
Type of Shelled	Total Pounds	Shell-Out/Yield per	Committed, not shipped - Export	Committed, not shipped - Domestic	Uncommitted
Total Shelled Meats					
Breakdown of Total Meats/Work in Process	Halves				
	Pieces				
	WIP				
Math Check (Must = 0)					

TOTAL INVENTORY (INSHELL BASIS) ON AUGUST 31					
Type	Total Pounds		Committed, not shipped - Export	Committed, not shipped - Domestic	Uncommitted
Total Shelled Meats					

* NOTE: Shelled Meats are converted to inshell using a yield of 50% (multiplying the shelled meats by 2). The form automatically makes this calculation.

U.S. PECANS HANDLED THROUGHOUT THE YEAR					
Pecans	Total Pounds	Assessed Rate	Total Assessment Owed for Fiscal Year***	Assessment Paid to Date	Amount Still Owed
Improved		\$0.01			
Natives/Seedlings		\$0.00			
Substandard		\$0.00			
TOTALS					

***Total Pounds multiplied by Assessment Rate

Handler/Company Name and Address

(including Street, City, State and Zip Code)

Signature

Date

Certification Statement: The making of any false statements or representations in any matter within the jurisdiction of any agency of the United States, knowing it to be false, is a violation of title 18, section 1001, of the United States Code, which provides for a penalty of a fine for individuals and for organizations or imprisonment, or both.

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident. Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English. To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at http://www.ascr.usda.gov/complaint_filing_cust.html and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by: (1) mail: U.S. Department of Agriculture Office of the Assistant Secretary for Civil Rights 1400 Independence Avenue, SW Washington, D.C. 20250-9410; (2) fax: (202) 690-7442; or (3) email: program.intake@usda.gov. USDA is an equal opportunity provider, employer, and lender.



817-916-0020

forms@americanpecan.com

3880 Hulen St., Suite 650, Fort Worth, TX 76107

Electronic Reporting Quick Start Guide

Handler Portal

User Registration

In order to access the Handler Portal, you must first register a user account with APC. If your handler company has multiple people who need access to the portal, each person must register their own account. User accounts should never be shared among multiple people in an organization. You will receive a welcome email with instructions and a link to the registration form.

To register a new account, use the link in the welcome email and complete the online form. You will need to provide your email address, basic personal information, and create a username and password. You will also need to provide your handler number and company name. If you do not know your handler number, please contact APC for assistance.

Create new account

Account Information

Email address *

A valid email address. All emails from the system will be sent to this address. The email address is not made public and will only be used if you wish to receive a new password or wish to receive certain news or notifications by email.

Confirm e-mail address *

Please re-type your e-mail address to confirm it is accurate

Username *

Several special characters are allowed, including space, period (.), hyphen (-), apostrophe ('), underscore (_), and the @ sign.

Password *

Password strength:

Confirm password *

Passwords match:

Provide a password for the new account in both fields.

Handler Information

Handler Name *

Handler Number *

Personal Information

First Name *

Last Name *

Job Title

Phone *

Mobile

CREATE NEW ACCOUNT



☎ 817-916-0020

✉ forms@americanpecan.com

📍 3880 Hulen St., Suite 650, Fort Worth, TX 76107

Handler Acknowledgment Letter

2024-2025 Crop Year

In accordance with, and by affixing signature to this Handler Acknowledgement Letter, you are hereby acknowledging receipt of the Pecan Marketing Order, CFR 7, Part 986 (Copy Enclosed and/or Attached) and the Handler Packet regarding the 2024 crop year.

Handlers use the Pecan Marketing Order as a guide to the American Pecan Council's (APC) policies and procedures affecting compliance with the Pecan Marketing Order and the auditing process used by the APC to ensure that the handlers are in compliance with the requirements, including but not limited to the filing of accurate and complete reports on PECANS handled, and remittance of the assessment obligation due on the TYPE OF PECANS AND POUNDS OF SHELLLED AND/OR INSHELLED pecans handled.

Handler Packet includes:

- 1) Schedule of Handler Reports & Assessments Due – 2024 Crop Year
- 2) Reporting Forms Package for the 2024 Crop Year
- 3) Handler Reporting Portal Quick Start Manual
- 4) Handler Communication Documents (Due to Council office by November 1, 2024)
- 5) Handler Acknowledgment Letter
- 6) Company Information Release Document
- 7) Code of Federal Regulation
- 8) American Pecan Council Bylaws
- 9) Organic Handler Application

It is the handler's responsibility to read the policies and procedures set forth in the Pecan Marketing Order, 7 CFR, Part 986. If a handler does not fully comprehend or has questions regarding the policies and/or procedures contained in the Marketing Order, they should contact the American Pecan Council office at (817) 916-0020 or email, forms@americanpecan.com.

American Pecan Council will hold a Handler Regulatory & Reporting Courses and Webinars (Training/Education Session)

- ♦ APC staff will conduct educational webinars for industry members to attend. APC will notify industry of all training events

Continued next page

Handler Acknowledgment Letter

2024-2025 Crop Year

Failure to sign and return the Handler Acknowledgement Letter to the American Pecan Council does not absolve the handler from the obligations and responsibilities contained within the Pecan Marketing Order.

It is herein understood and acknowledged that the American Pecan Council may modify, amend or revise the policies and procedures contained within the Compliance Plan, as may be required under the Pecan Marketing Order, or the USDA, Agricultural Marketing Service, Compliance and Analysis Program. Handlers will be notified when such modifications, amendments or revisions to the Compliance Plan have occurred.

In addition to the handler's signature, company name, company address, we are requesting names & email addresses for those in your company who you authorize to communicate with the American Pecan Council staff. All fields are required.

Handler Signature: _____ Date: _____

Company or d/b/a: _____

Street Address: _____

City, State & Zip: _____

Email Addresses: _____

This Handler Acknowledgement Letter is to be signed by the handler and returned to the American Pecan Council, via mail, email, or fax.





817-916-0020

forms@americanpecan.com

3880 Hulen St., Suite 650, Fort Worth, TX 76107

Company Information Release Document

2024-2025 Crop Year

The American Pecan Council (APC) is contacted by consumers, media, and others wanting information throughout the year. Additionally, the APC website, www.americanpecan.com, will list all registered growers, handlers, and accumulators who have authorized release of their information.

If you wish for your company information (as per below) to be released, please complete this form and mail, email or fax to American Pecan Council. You will submit this form each year to ensure all information is correct.

BUSINESS NAME: _____
MAILING ADDRESS: _____
CITY: _____ STATE: _____ ZIP: _____
PHONE NUMBER: _____ FAX NUMBER: _____
EMAIL ADDRESS: _____
WEBSITE: _____
SOCIAL MEDIA: _____
CONTACT PERSON: _____
MARKET BY SERVICE

RETAIL LOCATION?	YES _____	NO _____
ONLINE SHOPPING SITE?	YES _____	NO _____
SHIP PECANS NATIONWIDE WITHIN THE U.S.?	YES _____	NO _____
DIRECTLY EXPORT TO ANOTHER COUNTRY?	YES _____	NO _____
CUSTOM SHELLING?	YES _____	NO _____

MARKET BY PRODUCT

SHELLED MEATS?	YES _____	NO _____
INSHELL?	YES _____	NO _____
PECAN CONFECTIONS? (Coated Pecans, Baked Goods, Candies)	YES _____	NO _____
PECAN OIL?	YES _____	NO _____
PECAN BUTTER?	YES _____	NO _____
PECAN MEAL/PIECES?	YES _____	NO _____

This content is from the eCFR and is authoritative but unofficial.

Title 7 —Agriculture

Subtitle B —Regulations of the Department of Agriculture

Chapter IX —Agricultural Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

Part 986 Pecans Grown in the States of Alabama, Arkansas, Arizona, California, Florida, Georgia, Kansas, Louisiana, Missouri, Mississippi, North Carolina, New Mexico, Oklahoma, South Carolina, and Texas

Subpart A Order Regulating Handling of Pecans

Definitions

- § 986.1 Accumulator.
- § 986.2 Act.
- § 986.3 Affiliation.
- § 986.4 Blowouts.
- § 986.5 To certify.
- § 986.6 Confidential data or information.
- § 986.7 Container.
- § 986.8 Council.
- § 986.9 Crack.
- § 986.10 Cracks.
- § 986.11 Custom harvester.
- § 986.12 Department or USDA.
- § 986.13 Disappearance.
- § 986.14 Farm Service Agency.
- § 986.15 Fiscal year.
- § 986.16 Grade and size.
- § 986.17 Grower.
- § 986.18 Grower-cleaned production.
- § 986.19 Handler.
- § 986.20 To handle.
- § 986.21 Handler inventory.
- § 986.22 Handler-cleaned production.
- § 986.23 Hican.
- § 986.24 Inshell pecans.
- § 986.25 Inspection Service.
- § 986.26 Inter-handler transfer.
- § 986.27 Merchantable pecans.

- § 986.28 Pack.
- § 986.29 Pecans.
- § 986.30 Person.
- § 986.31 Production area.
- § 986.32 Proprietary capacity.
- § 986.33 Regions.
- § 986.34 Representative period.
- § 986.35 Secretary.
- § 986.36 Sheller.
- § 986.37 Shelled pecans.
- § 986.38 Stick-tights.
- § 986.39 Trade supply.
- § 986.40 Unassessed inventory.
- § 986.41 Varieties.
- § 986.42 Warehousing.
- § 986.43 Weight.

Administrative Body

- § 986.45 American Pecan Council.
- § 986.46 Council nominations and voting.
- § 986.47 Alternate members.
- § 986.48 Eligibility.
- § 986.49 Acceptance.
- § 986.50 Term of office.
- § 986.51 Vacancy.
- § 986.52 Council expenses.
- § 986.53 Powers.
- § 986.54 Duties.
- § 986.55 Procedure.
- § 986.56 Right of the Secretary.
- § 986.57 Funds and other property.
- § 986.58 Reapportionment and reestablishment of regions.

Expenses, Assessments, and Marketing Policy

- § 986.60 Budget.
- § 986.61 Assessments.
- § 986.62 Inter-handler transfers.
- § 986.63 Contributions.
- § 986.64 Accounting.
- § 986.65 Marketing policy.

Authorities Relating to Research, Promotion, Data Gathering,

Packaging, Grading, Compliance, and Reporting

- § 986.67 Recommendations for regulations.
- § 986.68 Authority for research and promotion activities.
- § 986.69 Authorities regulating handling.
- § 986.70 Handling for special purposes.
- § 986.71 Safeguards.
- § 986.72 Notification of regulation.

Reports, Books, and Other Records

- § 986.75 Reports of handler inventory.
- § 986.76 Reports of merchantable pecans handled.
- § 986.77 Reports of pecans received by handlers.
- § 986.78 Other handler reports.
- § 986.79 Verification of reports.
- § 986.80 Certification of reports.
- § 986.81 Confidential information.
- § 986.82 Books and other records.

Additional Provisions

- § 986.86 Exemptions.
- § 986.87 Compliance.
- § 986.88 Duration of immunities.
- § 986.89 Separability.
- § 986.90 Derogation.
- § 986.91 Liability.
- § 986.92 Agents.
- § 986.93 Effective time.
- § 986.94 Termination.
- § 986.95 Proceedings after termination.
- § 986.96 Amendments.
- § 986.97 Counterparts.
- § 986.98 Additional parties.
- § 986.99 Order with marketing agreement.

Subpart B Administrative Provisions

- § 986.161 Assessment rate.
- § 986.162 Inter-handler transfers.
- § 986.175 Handler inventory.
- § 986.177 Reports of pecans received by handlers.
- § 986.178 Other reports.

PART 986—PECANS GROWN IN THE STATES OF ALABAMA, ARKANSAS, ARIZONA, CALIFORNIA, FLORIDA, GEORGIA, KANSAS, LOUISIANA, MISSOURI, MISSISSIPPI, NORTH CAROLINA, NEW MEXICO, OKLAHOMA, SOUTH CAROLINA, AND TEXAS

Authority: 7 U.S.C. 601–674.

Source: 81 FR 51302, Aug. 4, 2016, unless otherwise noted.

Subpart A—Order Regulating Handling of Pecans

DEFINITIONS

§ 986.1 Accumulator.

Accumulator means a person who compiles inshell pecans from other persons for the purpose of resale or transfer.

§ 986.2 Act.

Act means Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*).

§ 986.3 Affiliation.

Affiliation. This term normally appears as “affiliate of” or “affiliated with,” and means a person such as a grower or sheller who is: A grower or handler that directly, or indirectly through one or more intermediaries, owns or controls, or is controlled by, or is under common control with the grower or handler specified; or a grower or handler that directly, or indirectly through one or more intermediaries, is connected in a proprietary capacity, or shares the ownership or control of the specified grower or handler with one or more other growers or handlers. As used in this part, the term “control” (including the terms “controlling,” “controlled by,” and “under the common control with”) means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a handler or a grower, whether through voting securities, membership in a cooperative, by contract or otherwise.

§ 986.4 Blowouts.

Blowouts mean lightweight or underdeveloped inshell pecan nuts that are considered of lesser quality and market value.

§ 986.5 To certify.

To certify means the issuance of a certification of inspection of pecans by the inspection service.

§ 986.6 Confidential data or information.

Confidential data or information submitted to the Council consists of data or information constituting a trade secret or disclosure of the trade position, financial condition, or business operations of a particular entity or its customers.

§ 986.7 Container.

Container means a box, bag, crate, carton, package (including retail packaging), or any other type of receptacle used in the packaging or handling of pecans.

§ 986.8 Council.

Council means the American Pecan Council established pursuant to § 986.45, American Pecan Council.

§ 986.9 Crack.

Crack means to break, crack, or otherwise compromise the outer shell of a pecan so as to expose the kernel inside to air outside the shell.

§ 986.10 Cracks.

Cracks refer to an accumulated group or container of pecans that have been cracked in harvesting or handling.

§ 986.11 Custom harvester.

Custom harvester means a person who harvests inshell pecans for a fee.

§ 986.12 Department or USDA.

Department or USDA means the United States Department of Agriculture.

§ 986.13 Disappearance.

Disappearance means the difference between the sum of grower-cleaned production and handler-cleaned production (whether from improved orchards or native and seedling groves) and the sum of inshell and shelled merchantable pecans reported on an inshell weight basis.

§ 986.14 Farm Service Agency.

Farm Service Agency or FSA means that agency of the U.S. Department of Agriculture.

§ 986.15 Fiscal year.

Fiscal year means the twelve months from October 1 to September 30, both inclusive, or any other such period deemed appropriate by the Council and approved by the Secretary.

§ 986.16 Grade and size.

Grade and size means any of the officially established grades of pecans and any of the officially established sizes of pecans as set forth in the United States standards for inshell and shelled pecans or amendments thereto, or modifications thereof, or other variations of grade and size based thereon recommended by the Council and approved by the Secretary.

§ 986.17 Grower.

- (a) *Grower* is synonymous with producer and means any person engaged within the production area in a proprietary capacity in the production of pecans if such person:
- (1) Owns an orchard and harvests its pecans for sale (even if a custom harvester is used); or
 - (2) Is a lessee of a pecan orchard and has the right to sell the harvest (even if the lessee must remit a percentage of the crop or rent to a lessor).

- (b) The term “grower” shall only include those who produce a minimum of 50,000 pounds of inshell pecans during a representative period (average of four years) or who own a minimum of 30 pecan acres according to the FSA, including acres calculated by the FSA based on pecan tree density. In the absence of any FSA delineation of pecan acreage, the regular definition of an acre will apply. The Council may recommend changes to this definition subject to the approval of the Secretary.

§ 986.18 Grower-cleaned production.

Grower-cleaned production means production harvested and processed through a cleaning plant to determine volumes of improved pecans, native and seedling pecans, and substandard pecans to transfer to a handler for sale.

§ 986.19 Handler.

Handler means any person who handles inshell or shelled pecans in any manner described in § 986.20.

§ 986.20 To handle.

To handle means to receive, shell, crack, accumulate, warehouse, roast, pack, sell, consign, transport, export, or ship (except as a common or contract carrier of pecans owned by another person), or in any other way to put inshell or shelled pecans into any and all markets in the stream of commerce either within the area of production or from such area to any point outside thereof. The term “to handle” shall not include: sales and deliveries within the area of production by growers to handlers; grower warehousing; custom handling (except for selling, consigning or exporting) or other similar activities paid for on a fee-for-service basis by a grower who retains the ownership of the pecans; or transfers between handlers.

§ 986.21 Handler inventory.

Handler inventory means all pecans, shelled or inshell, as of any date and wherever located within the production area, then held by a handler for their account.

§ 986.22 Handler-cleaned production.

Handler-cleaned production is production that is received, purchased or consigned from the grower by a handler prior to processing through a cleaning plant, and then subsequently processed through a cleaning plant so as to determine volumes of improved pecans, native and seedling pecans, and substandard pecans.

§ 986.23 Hican.

Hican means a tree resulting from a cross between a pecan and some other type of hickory (members of the genus *Carya*) or the nut from such a hybrid tree.

§ 986.24 Inshell pecans.

Inshell pecans are nuts whose kernel is maintained inside the shell.

§ 986.25 Inspection Service.

Inspection service means the Federal-State Inspection Service or any other inspection service authorized by the Secretary.

§ 986.26 Inter-handler transfer.

Inter-handler transfer means the movement of inshell pecans from one handler to another inside the production area for the purposes of additional handling. Any assessments or requirements under this part with respect to inshell pecans so transferred may be assumed by the receiving handler.

§ 986.27 Merchantable pecans.

- (a) **Inshell. Merchantable inshell** pecans mean all inshell pecans meeting the minimum grade regulations that may be effective pursuant to § 986.69, Authorities regulating handling.
- (b) **Shelled. Merchantable shelled** pecans means all shelled pecans meeting the minimum grade regulations that may be effective pursuant to § 986.69, Authorities regulating handling.

§ 986.28 Pack.

Pack means to clean, grade, or otherwise prepare pecans for market as inshell or shelled pecans.

§ 986.29 Pecans.

- (a) **Pecans** means and includes any and all varieties or subvarieties of Genus: *Carya*, Species: *illinoensis*, expressed also as *Carya illinoensis* (*syn. C. illinoenses*) including all varieties thereof, excluding hicans, that are produced in the production area and are classified as:
 - (1) **Native or seedling** pecans harvested from non-grafted or naturally propagated tree varieties;
 - (2) **Improved pecans** harvested from grafted tree varieties bred or selected for superior traits of nut size, ease of shelling, production characteristics, and resistance to certain insects and diseases, including but not limited to: Desirable, Elliot, Forkert, Sumner, Creek, Excel, Gracross, Gratex, Gloria Grande, Kiowa, Moreland, Sioux, Mahan, Mandan, Moneymaker, Morrill, Cunard, Zinner, Byrd, McMillan, Stuart, Pawnee, Eastern and Western Schley, Wichita, Success, Cape Fear, Choctaw, Cheyenne, Lakota, Kanza, Caddo, and Ocone; and
 - (3) **Substandard pecans** that are blowouts, cracks, stick-tights, and other inferior quality pecans, whether native or improved, that, with further handling, can be cleaned and eventually sold into the stream of commerce.
- (b) The Council, with the approval of the Secretary, may recognize new or delete obsolete varieties or sub-varieties for each category.

§ 986.30 Person.

Person means an individual, partnership, corporation, association, or any other business unit.

§ 986.31 Production area.

Production area means the following fifteen pecan-producing states within the United States: Alabama, Arkansas, Arizona, California, Florida, Georgia, Kansas, Louisiana, Mississippi, Missouri, North Carolina, New Mexico, Oklahoma, South Carolina, and Texas.

§ 986.32 Proprietary capacity.

Proprietary capacity means the capacity or interest of a grower or handler that, either directly or through one or more intermediaries or affiliates, is a property owner together with all the appurtenant rights of an owner, including the right to vote the interest in that capacity as an individual, a shareholder, member of a cooperative, partner, trustee or in any other capacity with respect to any other business unit.

§ 986.33 Regions.

- (a) *Regions* within the production area shall consist of the following:
- (1) *Eastern Region*, consisting of: Alabama, Florida, Georgia, North Carolina, South Carolina
 - (2) *Central Region*, consisting of: Arkansas, Kansas, Louisiana, Mississippi, Missouri, Oklahoma, Texas
 - (3) *Western Region*, consisting of: Arizona, California, New Mexico
- (b) With the approval of the Secretary, the boundaries of any region may be changed pursuant to § 986.58, Reapportionment and reestablishment of regions.

§ 986.34 Representative period.

Representative period is the previous four fiscal years for which a grower's annual average production is calculated, or any other period recommended by the Council and approved by the Secretary.

§ 986.35 Secretary.

Secretary means the Secretary of Agriculture of the United States, or any other officer or employee of the United States Department of Agriculture who is, or who may be, authorized to perform the duties of the Secretary of Agriculture of the United States.

§ 986.36 Sheller.

Sheller refers to any person who converts inshell pecans to shelled pecans and sells the output in any and all markets in the stream of commerce, both within and outside of the production area; *Provided*, That the term "sheller" shall only include those who shell more than 1 million pounds of inshell pecans in a fiscal year. The Council may recommend changes to this definition subject to the approval of the Secretary.

§ 986.37 Shelled pecans.

Shelled pecans are pecans whose shells have been removed leaving only edible kernels, kernel pieces or pecan meal. *Shelled pecans* are synonymous with *pecan meats*.

§ 986.38 Stick-tights.

Stick-tights means pecans whose outer shuck has adhered to the shell causing their value to decrease or be discounted.

§ 986.39 Trade supply.

Trade supply means the quantity of merchantable inshell or shelled pecans that growers will supply to handlers during a fiscal year for sale in the United States and abroad or, in the absence of handler regulations § 986.69 setting forth minimum grade regulations for merchantable pecans, the sum of handler-cleaned and grower-cleaned production.

§ 986.40 Unassessed inventory.

Unassessed inventory means inshell pecans held by growers or handlers for which no assessment has been paid to the Council.

§ 986.41 Varieties.

Varieties mean and include all cultivars, classifications, or subdivisions of pecans.

§ 986.42 Warehousing.

Warehousing means to hold assessed or unassessed inventory.

§ 986.43 Weight.

Weight means pounds of inshell pecans, received by handler within each fiscal year; *Provided*, That for shelled pecans the actual weight shall be multiplied by two to obtain an inshell weight.

ADMINISTRATIVE BODY

§ 986.45 American Pecan Council.

The American Pecan Council is hereby established consisting of 17 members selected by the Secretary, each of whom shall have an alternate member nominated with the same qualifications as the member. The 17 members shall include nine (9) grower seats, six (6) sheller seats, and two (2) at-large seats allocated to one accumulator and one public member. The grower and sheller nominees and their alternates shall be growers and shellers at the time of their nomination and for the duration of their tenure. Grower and sheller members and their alternates shall be selected by the Secretary from nominees submitted by the Council. The two at-large seats shall be nominated by the Council and appointed by the Secretary.

(a) Each region shall be allocated the following member seats:

- (1) **Eastern Region:** Three (3) growers and two (2) shellers;
- (2) **Central Region:** Three (3) growers and two (2) shellers;
- (3) **Western Region:** Three (3) growers and two (2) shellers.

(b) Within each region, the grower and sheller seats shall be defined as follows:

- (1) **Grower seats:** Each region shall have a grower Seat 1 and Seat 2 allocated to growers whose acreage is equal to or exceeds 176 pecan acres. Each region shall also have a grower Seat 3 allocated to a grower whose acreage is less than 176 pecan acres.
- (2) **Sheller seats:** Each region shall have a sheller Seat 1 allocated to a sheller who handles more than 12.5 million pounds of inshell pecans in the fiscal year preceding nomination, and a sheller Seat 2 allocated to a sheller who handles less than or equal to 12.5 million pounds of inshell pecans in the fiscal year preceding nomination.

(c) The Council may recommend, subject to the approval of the Secretary, revisions to the above requirements for grower and sheller seats to accommodate changes within the industry.

§ 986.46 Council nominations and voting.

Nomination of Council members and alternate members shall follow the procedure set forth in this section, or as may be changed as recommended by the Council and approved by the Secretary. All nominees must meet the requirements set forth in §§ 986.45, American Pecan Council, and 986.48, Eligibility, or as otherwise identified by the Secretary, to serve on the Council.

(a) **Initial members.** Nominations for initial Council members and alternate members shall be conducted by the Secretary by either holding meetings of shellers and growers, by mail, or by email, and shall be submitted on approved nomination forms. Eligibility to cast votes on nomination ballots, accounting of nomination ballot results, and identification of member and alternate nominees shall follow the procedures set forth in this section, or by any other criteria deemed necessary by the Secretary. The Secretary shall select and appoint the initial members and alternate members of the Council.

(b) **Successor members.** Subsequent nominations of Council members and alternate members shall be conducted as follows:

(1) **Call for nominations.**

- (i) Nominations for the grower member seats for each region shall be received from growers in that region on approved forms containing the information stipulated in this section.
- (ii) If a grower is engaged in producing pecans in more than one region, such grower shall nominate in the region in which they grow the largest volume of their production.
- (iii) Nominations for the sheller member seats for each region shall be received from shellers in that region on approved forms containing the information stipulated in this section.
- (iv) If a sheller is engaged in handling in more than one region, such sheller shall nominate in the region in which they shelled the largest volume in the preceding fiscal year.

(2) **Voting for nominees.**

- (i) Only growers, through duly authorized officers or employees of growers, if applicable, may participate in the nomination of grower member nominees and their alternates. Each grower shall be entitled to cast only one nomination ballot for each of the three grower seats in their region.
- (ii) If a grower is engaged in producing pecans in more than one region, such grower shall cast their nomination ballot in the region in which they grow the largest volume of their production. Notwithstanding this stipulation, such grower may vote their volume produced in any or all of the three regions.
- (iii) Only shellers, through duly authorized officers or employees of shellers, if applicable, may participate in the nomination of the sheller member nominees and their alternates. Each sheller shall be entitled to cast only one nomination ballot for each of the two sheller seats in their region.
- (iv) If a sheller is engaged in handling in more than one region, such sheller shall cast their nomination ballot in the region in which they shelled the largest volume in the preceding fiscal year. Notwithstanding this stipulation, such sheller may vote their volume handled in all three regions.

- (v) If a person is both a grower and a sheller of pecans, such person may not participate in both grower and sheller nominations. Such person must elect to participate either as a grower or a sheller.

(3) ***Nomination procedure for grower seats.***

- (i) The Council shall mail to all growers who are on record with the Council within the respective regions a grower nomination ballot indicating the nominees for each of the three grower member seats, along with voting instructions. Growers may cast ballots on the proper ballot form either at meetings of growers, by mail, or by email as designated by the Council. For ballots to be considered, they must be submitted on the proper forms with all required information, including signatures.
- (ii) On the ballot, growers shall indicate their vote for the grower nominee candidates for the grower seats and also indicate their average annual volume of inshell pecan production for the preceding four fiscal years.
- (iii) **Seat 1** (growers with equal to or more than 176 acres of pecans). The nominee for this seat in each region shall be the grower receiving the highest volume of production (pounds of inshell pecans) votes from the respective region, and the grower receiving the second highest volume of production votes shall be the alternate member nominee for this seat. In case of a tie vote, the nominee shall be selected by a drawing.
- (iv) **Seat 2** (growers with equal to or more than 176 acres of pecans). The nominee for this seat in each region shall be the grower receiving the highest number of votes from their respective region, and the grower receiving the second highest number of votes shall be the alternate member nominee for this seat. In case of a tie vote, the nominee shall be selected by a drawing.
- (v) **Seat 3** (grower with less than 176 acres of pecans). The nominee for this seat in each region shall be the grower receiving the highest number of votes from the respective region, and the grower receiving the second highest number of votes shall be the alternate member nominee for this seat. In case of a tie vote, the nominee shall be selected by a drawing.

(4) ***Nomination procedure for sheller seats.***

- (i) The Council shall mail to all shellers who are on record with the Council within the respective regions the sheller ballot indicating the nominees for each of the two sheller member seats in their respective regions, along with voting instructions. Shellers may cast ballots on approved ballot forms either at meetings of shellers, by mail, or by email as designated by the Council. For ballots to be considered, they must be submitted on the approved forms with all required information, including signatures.
- (ii) **Seat 1** (shellers handling more than 12.5 million lbs. of inshell pecans in the preceding fiscal year). The nominee for this seat in each region shall be assigned to the sheller receiving the highest number of votes from the respective region, and the sheller receiving the second highest number of votes shall be the alternate member nominee for this seat. In case of a tie vote, the nominee shall be selected by a drawing.

- (iii) **Seat 2** (shellers handling equal to or less than 12.5 million lbs. of inshell pecans in the preceding fiscal year). The nominee for this seat in each region shall be assigned to the sheller receiving the highest number of votes from the respective region, and the sheller receiving the second highest number of votes shall be the alternate member nominee for this seat. In case of a tie vote, the nominee shall be selected by a drawing.
- (5) **Reports to the Secretary.** Nominations in the foregoing manner received by the Council shall be reported to the Secretary on or before 15 of each July of any year in which nominations are held, together with a certified summary of the results of the nominations and other information deemed by the Council to be pertinent or requested by the Secretary. From those nominations, the Secretary shall select the fifteen grower and sheller members of the Council and an alternate for each member, unless the Secretary rejects any nomination submitted. In the event the Secretary rejects a nomination, a second nomination process may be conducted to identify other nominee candidates, the resulting nominee information may be reported to the Secretary after July 15 and before September 15. If the Council fails to report nominations to the Secretary in the manner herein specified, the Secretary may select the members without nomination. If nominations for the public and accumulator at-large members are not submitted by September 15 of any year in which their nomination is due, the Secretary may select such members without nomination.
- (6) **At-large members.** The grower and sheller members of the Council shall select one public member and one accumulator member and respective alternates for consideration, selection and appointment by the Secretary. The public member and alternate public member may not have any financial interest, individually or corporately, or affiliation with persons vested in the pecan industry. The accumulator member and alternate accumulator member must meet the criteria set forth in § 986.1, Accumulator, and may reside or maintain a place of business in any region.
- (7) **Nomination forms.** The Council may distribute nomination forms at meetings, by mail, by email, or by any other form of distribution recommended by the Council and approved by the Secretary.
 - (i) **Grower nomination forms.** Each nomination form submitted by a grower shall include the following information:
 - (A) The name of the nominated grower;
 - (B) The name and signature of the nominating grower;
 - (C) Two additional names and respective signatures of growers in support of the nomination;
 - (D) Any other such information recommended by the Council and approved by the Secretary.
 - (ii) **Sheller nomination forms.** Each nomination form submitted by a sheller shall include the following:
 - (A) The name of the nominated sheller;
 - (B) The name and signature of the nominating sheller;
 - (C) One additional name and signature of a sheller in support of the nomination;
 - (D) Any other such information recommended by the Council and approved by the Secretary.
- (8) **Changes to the nomination and voting procedures.** The Council may recommend, subject to the approval of the Secretary, a change to these procedures should the Council determine that a revision is necessary.

§ 986.47 Alternate members.

- (a) Each member of the Council shall have an alternate member to be nominated in the same manner as the member.
- (b) An alternate for a member of the Council shall act in the place and stead of such member in their absence or in the event of their death, removal, resignation, or disqualification, until the next nomination and elections take place for the Council or the vacancy has been filled pursuant to § 986.48, Eligibility.
- (c) In the event any member of the Council and their alternate are both unable to attend a meeting of the Council, any alternate for any other member representing the same group as the absent member may serve in the place of the absent member.

§ 986.48 Eligibility.

- (a) Each grower member and alternate shall be, at the time of selection and during the term of office, a grower or an officer, or employee, of a grower in the region and in the classification for which nominated.
- (b) Each sheller member and alternate shall be, at the time of selection and during the term of office, a sheller or an officer or employee of a sheller in the region and in the classification for which nominated.
- (c) A grower can be a nominee for only one grower member seat. If a grower is nominated for two grower member seats, he or she shall select the seat in which he or she desires to run, and the grower ballot shall reflect that selection.
- (d) Any member or alternate member who at the time of selection was employed by or affiliated with the person who is nominated shall, upon termination of that relationship, become disqualified to serve further as a member and that position shall be deemed vacant.
- (e) No person nominated to serve as a public member or alternate public member shall have a financial interest in any pecan grower or handling operation.

§ 986.49 Acceptance.

Each person to be selected by the Secretary as a member or as an alternate member of the Council shall, prior to such selection, qualify by advising the Secretary that if selected, such person agrees to serve in the position for which that nomination has been made.

§ 986.50 Term of office.

- (a) Selected members and alternate members of the Council shall serve for terms of four years: *Provided*, That at the end of the first four (4) year term and in the nomination and selection of the second Council only, four of the grower member and alternate seats and three of the sheller member and alternate seats shall be seated for terms of two years so that approximately half of the memberships' and alternates' terms expire every two years thereafter. Member and alternate seats assigned two-year terms for the seating of the second Council only shall be as follows:
 - (1) Grower member Seat 2 in all regions shall be assigned a two-year term;
 - (2) Grower member Seat 3 in all regions shall, by drawing, identify one member seat to be assigned a two-year term; and,
 - (3) Sheller Seat 2 in all regions shall be assigned a two-year term.

- (b) Council members and alternates may serve up to two consecutive, four-year terms of office. Subject to paragraph (c) of this section, in no event shall any member or alternate serve more than eight consecutive years on the Council as either a member or an alternate. However, if selected, an alternate having served up to two consecutive terms may immediately serve as a member for two consecutive terms without any interruption in service. The same is true for a member who, after serving for up to two consecutive terms, may serve as an alternate if nominated without any interruption in service. A person having served the maximum number of terms as set forth above may not serve again as a member or an alternate for at least twelve consecutive months. For purposes of determining when a member or alternate has served two consecutive terms, the accrual of terms shall begin following any period of at least twelve consecutive months out of office.
- (c) Each member and alternate member shall continue to serve until a successor is selected and has qualified.
- (d) A term of office shall begin as set forth in the by-laws or as directed by the Secretary each year for all members.
- (e) The Council may recommend, subject to approval of the Secretary, revisions to the start day for the term of office, the number of years in a term, and the number of terms a member or an alternate can serve.

§ 986.51 Vacancy.

Any vacancy on the Council occurring by the failure of any person selected to the Council to qualify as a member or alternate member due to a change in status making the member ineligible to serve, or due to death, removal, or resignation, shall be filled, by a majority vote of the Council for the unexpired portion of the term. However, that person shall fulfill all the qualifications set forth in this part as required for the member whose office that person is to fill. The qualifications of any person to fill a vacancy on the Council shall be certified in writing to the Secretary. The Secretary shall notify the Council if the Secretary determines that any such person is not qualified.

§ 986.52 Council expenses.

The members and their alternates of the Council shall serve without compensation, but shall be reimbursed for the reasonable and necessary expenses incurred by them in the performance of their duties under this part.

§ 986.53 Powers.

The Council shall have the following powers:

- (a) To administer the provisions of this part in accordance with its terms;
- (b) To make bylaws, rules and regulations to effectuate the terms and provisions of this part;
- (c) To receive, investigate, and report to the Secretary complaints of violations of this part; and
- (d) To recommend to the Secretary amendments to this part.

§ 986.54 Duties.

The duties of the Council shall be as follows:

- (a) To act as intermediary between the Secretary and any handler or grower;

- (b) To keep minute books and records which will clearly reflect all of its acts and transactions, and such minute books and records shall at any time be subject to the examination of the Secretary;
- (c) To furnish to the Secretary a complete report of all meetings and such other available information as he or she may request;
- (d) To appoint such employees as it may deem necessary and to determine the salaries, define the duties, and fix the bonds of such employees;
- (e) To cause the books of the Council to be audited by one or more certified public accountants at least once for each fiscal year and at such other times as the Council deems necessary or as the Secretary may request, and to file with the Secretary three copies of all audit reports made;
- (f) To investigate the growing, shipping and marketing conditions with respect to pecans and to assemble data in connection therewith;
- (g) To investigate compliance with the provisions of this part; and,
- (h) To recommend by-laws, rules and regulations for the purpose of administering this part.

§ 986.55 Procedure.

- (a) The members of the Council shall select a chairman from their membership, and shall select such other officers and adopt such rules for the conduct of Council business as they deem advisable.
- (b) The Council may provide for meetings by telephone, or other means of communication, and any vote cast at such a meeting shall be confirmed promptly in writing. The Council shall give the Secretary the same notice of its meetings as is given to members of the Council.
- (c) **Quorum.** A quorum of the Council shall be any twelve voting Council members. The vote of a majority of members present at a meeting at which there is a quorum shall constitute the act of the Council; *Provided, That:*
 - (1) Actions of the Council with respect to the following issues shall require a two-thirds (12 members) concurring vote of the Council:
 - (i) Establishment of or changes to by-laws;
 - (ii) Appointment or administrative issues relating to the program's manager or chief executive officer;
 - (iii) Budget;
 - (iv) Assessments;
 - (v) Compliance and audits;
 - (vi) Reestablishment of regions and reapportionment or reallocation of Council membership;
 - (vii) Modifying definitions of grower and sheller;
 - (viii) Research or promotion activities under § 986.68;
 - (ix) Grade, quality and size regulation under § 986.69(a)(1) and (2);
 - (x) Pack and container regulation under § 986.69(a)(3); and,

- (2) Actions of the Council with respect to the securing of commercial bank loans for the purpose of financing start-up costs of the Council and its activities or securing financial assistance in emergency situations shall require a unanimous vote of all members present at an in-person meeting; *Provided*, That in the event of an emergency that warrants immediate attention sooner than a face-to-face meeting is possible, a vote for financing may be taken. In such event, the Council's first preference is a videoconference and second preference is phone conference, both followed by written confirmation of the members attending the meeting.

§ 986.56 Right of the Secretary.

The members and alternates for members and any agent or employee appointed or employed by the Council shall be subject to removal or suspension by the Secretary at any time. Each and every regulation, decision, determination, or other act shall be subject to the continuing right of the Secretary to disapprove of the same at any time, and, upon such disapproval, shall be deemed null and void, except as to acts done in reliance thereon or in compliance therewith prior to such disapproval by the Secretary.

§ 986.57 Funds and other property.

- (a) All funds received pursuant to any of the provisions of this part shall be used solely for the purposes specified in this part, and the Secretary may require the Council and its members to account for all receipts and disbursements.
- (b) Upon the death, resignation, removal, disqualification, or expiration of the term of office of any member or employee, all books, records, funds, and other property in their possession belonging to the Council shall be delivered to their successor in office or to the Council, and such assignments and other instruments shall be executed as may be necessary to vest in such successor or in the Council full title to all the books, records, funds, and other property in the possession or under the control of such member or employee pursuant to this subpart.

§ 986.58 Reapportionment and reestablishment of regions.

The Council may recommend, subject to approval of the Secretary, reestablishment of regions, reapportionment of members among regions, and may revise the groups eligible for representation on the Council. In recommending any such changes, the following shall be considered:

- (a) Shifts in acreage within regions and within the production area during recent years;
- (b) The importance of new production in its relation to existing regions;
- (c) The equitable relationship between Council apportionment and regions;
- (d) Changes in industry structure and/or the percentage of crop represented by various industry entities; and
- (e) Other relevant factors.

EXPENSES, ASSESSMENTS, AND MARKETING POLICY

§ 986.60 Budget.

As soon as practicable before the beginning of each fiscal year, and as may be necessary thereafter, the Council shall prepare a budget of income and expenditures necessary for the administration of this part. The Council may recommend a rate of assessment calculated to provide adequate funds to defray its proposed expenditures. The Council shall present such budget to the Secretary with an accompanying report showing the basis for its calculations, and all shall be subject to Secretary approval.

§ 986.61 Assessments.

- (a) Each handler who first handles inshell pecans shall pay assessments to the Council. Assessments collected each fiscal year shall defray expenses which the Secretary finds reasonable and likely to be incurred by the Council during that fiscal year. Each handler's share of assessments paid to the Council shall be equal to the ratio between the total quantity of inshell pecans handled by them as the first handler thereof during the applicable fiscal year, and the total quantity of inshell pecans handled by all regulated handlers in the production area during the same fiscal year. The payment of assessments for the maintenance and functioning of the Council may be required under this part throughout the period it is in effect irrespective of whether particular provisions thereof are suspended or become inoperative. Handlers may avail themselves of an inter-handler transfer, as provided for in § 986.62, Inter-handler transfers.
- (b) Based upon a recommendation of the Council or other available data, the Secretary shall fix three base rates of assessment for inshell pecans handled during each fiscal year. Such base rates shall include one rate of assessment for any or all varieties of pecans classified as native and seedling; one rate of assessment for any or all varieties of pecans classified as improved; and one rate of assessment for any pecans classified as substandard.
- (c) Upon implementation of this part and subject to the approval of the Secretary, initial assessment rates per classification shall be set within the following prescribed ranges: Native and seedling classified pecans shall be assessed at one-cent to two-cents per pound; improved classified pecans shall be assessed at two-cents to three-cents per pound; and, substandard classified pecans shall be assessed at one-cent to two-cents per pound. These assessment ranges shall be in effect for the initial four years of the order.
- (d) Subsequent assessment rates shall not exceed two percent of the aggregate of all prices in each classification across the production area based on Council data, or the average of USDA reported average price received by growers for each classification, in the preceding fiscal year as recommended by the Council and approved by the Secretary. After four years from the implementation of this part, the Council may recommend, subject to the approval of the Secretary, revisions to this calculation or assessment ranges.
- (e) The Council, with the approval of the Secretary, may revise the assessment rates if it determines, based on information including crop size and value, that the action is necessary, and if the revision does not exceed the assessment limitation specified in this section and is made prior to the final billing of the assessment.
- (f) In order to provide funds for the administration of the provisions of this part during the first part of a fiscal year, before sufficient operating income is available from assessments, the Council may accept the payment of assessments in advance and may also borrow money for such purposes; *Provided*, That no loan may amount to more than 50 percent of projected assessment revenue projected for the year in which the loan is secured, and the loan must be repaid within five years.

- (g) If a handler does not pay assessments within the time prescribed by the Council, the assessment may be increased by a late payment charge and/or an interest rate charge at amounts prescribed by the Council with approval of the Secretary.
- (h) On August 31 of each year, every handler warehousing inshell pecans shall be identified as the first handler of those pecans and shall be required to pay the assessed rate on the category of pecans in their possession on that date. The terms of this paragraph may be revised subject to the recommendation of the Council and approval by the Secretary.
- (i) On August 31 of each year, all inventories warehoused by growers from the current fiscal year shall cease to be eligible for inter-handler transfer treatment. Instead, such inventory will require the first handler that handles such inventory to pay the assessment thereon in accordance with the prevailing assessment rates at the time of transfer from the grower to the said handler. The terms of this paragraph may be revised subject to the recommendation of the Council and approval by the Secretary.

§ 986.62 Inter-handler transfers.

Any handler inside the production area, except as provided for in § 986.61(h) and (i), Assessments, may transfer inshell pecans to another handler inside the production area for additional handling, and any assessments or other marketing order requirements with respect to pecans so transferred may be assumed by the receiving handler. The Council, with the approval of the Secretary, may establish methods and procedures, including necessary reports, to maintain accurate records for such transfers. All inter-handler transfers will be documented by forms or electronic transfer receipts approved by the Council, and all forms or electronic transfer receipts used for inter-handler transfers shall require that copies be sent to the selling party, the receiving party, and the Council. Such forms must state which handler has the assessment responsibilities.

§ 986.63 Contributions.

The Council may accept voluntary contributions. Such contributions may only be accepted if they are free from any encumbrances or restrictions on their use and the Council shall retain complete control of their use. The Council may receive contributions from both within and outside of the production area.

§ 986.64 Accounting.

- (a) Assessments collected in excess of expenses incurred shall be accounted for in accordance with one of the following:
 - (1) Excess funds not retained in a reserve, as provided in paragraph (a)(2) of this section shall be refunded proportionately to the persons from whom they were collected; or
 - (2) The Council, with the approval of the Secretary, may carry over excess funds into subsequent fiscal periods as reserves: *Provided*, That funds already in reserves do not equal approximately three fiscal years' expenses. Such reserve funds may be used:
 - (i) To defray expenses during any fiscal period prior to the time assessment income is sufficient to cover such expenses;
 - (ii) To cover deficits incurred during any fiscal period when assessment income is less than expenses;
 - (iii) To defray expenses incurred during any period when any or all provisions of this part are suspended or are inoperative; and

- (iv) To cover necessary expenses of liquidation in the event of termination of this part.
- (b) Upon such termination, any funds not required to defray the necessary expenses of liquidation shall be disposed of in such manner as the Secretary may determine to be appropriate. To the extent practical, such funds shall be returned pro rata to the persons from whom such funds were collected.
- (c) All funds received by the Council pursuant to the provisions of this part shall be used solely for the purposes specified in this part and shall be accounted for in the manner provided for in this part. The Secretary may at any time require the Council and its members to account for all receipts and disbursements.
- (d) Upon the removal or expiration of the term of office of any member of the Council, such member shall account for all receipts and disbursements and deliver all property and funds in their possession to the Council, and shall execute such assignments and other instruments as may be necessary or appropriate to vest in the Council full title to all of the property, funds, and claims vested in such member pursuant to this part.
- (e) The Council may make recommendations to the Secretary for one or more of the members thereof, or any other person, to act as a trustee for holding records, funds, or any other Council property during periods of suspension of this subpart, or during any period or periods when regulations are not in effect and if the Secretary determines such action appropriate, he or she may direct that such person or persons shall act as trustee or trustees for the Council.

§ 986.65 Marketing policy.

By the end of each fiscal year, the Council shall make a report and recommendation to the Secretary on the Council's proposed marketing policy for the next fiscal year. Each year such report and recommendation shall be adopted by the affirmative vote of at least two-thirds ($\frac{2}{3}$) of the members of the Council and shall include the following and, where applicable, on an inshell basis:

- (a) Estimate of the grower-cleaned production and handler-cleaned production in the area of production for the fiscal year;
- (b) Estimate of disappearance;
- (c) Estimate of the improved, native, and substandard pecans;
- (d) Estimate of the handler inventory on August 31, of inshell and shelled pecans;
- (e) Estimate of unassessed inventory;
- (f) Estimate of the trade supply, taking into consideration imports, and other factors;
- (g) Preferable handler inventory of inshell and shelled pecans on August 31 of the following year;
- (h) Projected prices in the new fiscal year;
- (i) Competing nut supplies; and
- (j) Any other relevant factors.

AUTHORITIES RELATING TO RESEARCH, PROMOTION, DATA GATHERING, PACKAGING, GRADING, COMPLIANCE,
AND REPORTING

§ 986.67 Recommendations for regulations.

Upon complying with § 986.65, Marketing policy, the Council may propose regulations to the Secretary whenever it finds that such proposed regulations may assist in effectuating the declared policy of the Act.

§ 986.68 Authority for research and promotion activities.

The Council, with the approval of the Secretary, may establish or provide for the establishment of production research, marketing research and development projects, and marketing promotion, including paid generic advertising, designed to assist, improve, or promote the marketing, distribution, and consumption or efficient production of pecans including product development, nutritional research, and container development. The expenses of such projects shall be paid from funds collected pursuant to this part.

§ 986.69 Authorities regulating handling.

- (a) The Council may recommend, subject to the approval of the Secretary, regulations that:
 - (1) Establish handling requirements or minimum tolerances for particular grades, sizes, or qualities, or any combination thereof, of any or all varieties or classifications of pecans during any period;
 - (2) Establish different handling requirements or minimum tolerances for particular grades, sizes, or qualities, or any combination thereof for different varieties or classifications, for different containers, for different portions of the production area, or any combination of the foregoing, during any period;
 - (3) Fix the size, capacity, weight, dimensions, or pack of the container or containers, which may be used in the packaging, transportation, sale, preparation for market, shipment, or other handling of pecans; and
 - (4) Establish inspection and certification requirements for the purposes of (a)(1) through (3) of this section.
- (b) Regulations issued hereunder may be amended, modified, suspended, or terminated whenever it is determined:
 - (1) That such action is warranted upon recommendation of the Council and approval by the Secretary, or other available information; or
 - (2) That regulations issued hereunder no longer tend to effectuate the declared policy of the Act.
- (c) The authority to regulate as put forward in this subsection shall not in any way constitute authority for the Council to recommend volume regulation, such as reserve pools, producer allotments, or handler withholding requirements which limit the flow of product to market for the purpose of reducing market supply.
- (d) The Council may recommend, subject to the approval of the Secretary, rules and regulations to effectuate this subpart.

§ 986.70 Handling for special purposes.

Regulations in effect pursuant to § 986.69, Authorities regulating handling, may be modified, suspended, or terminated to facilitate handling of pecans for:

- (a) Relief or charity;

- (b) Experimental purposes; and
- (c) Other purposes which may be recommended by the Council and approved by the Secretary.

§ 986.71 Safeguards.

The Council, with the approval of the Secretary, may establish through rules such requirements as may be necessary to establish that shipments made pursuant to § 986.70, Handling for special purposes, were handled and used for the purpose stated.

§ 986.72 Notification of regulation.

The Secretary shall promptly notify the Council of regulations issued or of any modification, suspension, or termination thereof. The Council shall give reasonable notice thereof to industry participants.

REPORTS, BOOKS, AND OTHER RECORDS

§ 986.75 Reports of handler inventory.

Each handler shall submit to the Council in such form and on such dates as the Council may prescribe, reports showing their inventory of inshell and shelled pecans.

§ 986.76 Reports of merchantable pecans handled.

Each handler who handles merchantable pecans at any time during a fiscal year shall submit to the Council in such form and at such intervals as the Council may prescribe, reports showing the quantity so handled and such other information pertinent thereto as the Council may specify.

§ 986.77 Reports of pecans received by handlers.

Each handler shall file such reports of their pecan receipts from growers, handlers, or others in such form and at such times as may be required by the Council with the approval of the Secretary.

§ 986.78 Other handler reports.

Upon request of the Council made with the approval of the Secretary each handler shall furnish such other reports and information as are needed to enable the Council to perform its duties and exercise its powers under this part.

§ 986.79 Verification of reports.

For the purpose of verifying and checking reports filed by handlers on their operations, the Secretary and the Council, through their duly authorized representatives, shall have access to any premises where pecans and pecan records are held. Such access shall be available at any time during reasonable business hours. Authorized representatives of the Council or the Secretary shall be permitted to inspect any pecans held and any and all records of the handler with respect to matters within the purview of this part. Each handler shall maintain complete records on the receiving, holding, and disposition of all pecans. Each handler shall furnish all labor necessary to facilitate such inspections at no expense to the Council or the Secretary. Each handler shall store all pecans held by him in such manner as to facilitate inspection and shall maintain adequate storage records which will permit

accurate identification with respect to inspection certificates of respective lots and of all such pecans held or disposed of theretofore. The Council, with the approval of the Secretary, may establish any methods and procedures needed to verify reports.

§ 986.80 Certification of reports.

All reports submitted to the Council as required in this part shall be certified to the Secretary and the Council as to the completeness and correctness of the information contained therein.

§ 986.81 Confidential information.

All reports and records submitted by handlers to the Council, which include data or information constituting a trade secret or disclosing the trade position, or financial condition or business operations of the handler shall be kept in the custody of one or more employees of the Council and shall be disclosed to no person except the Secretary.

§ 986.82 Books and other records.

Each handler shall maintain such records of pecans received, held and disposed of by them as may be prescribed by the Council for the purpose of performing its duties under this part. Such books and records shall be retained and be available for examination by authorized representatives of the Council and the Secretary for the current fiscal year and the preceding three (3) fiscal years.

ADDITIONAL PROVISIONS

§ 986.86 Exemptions.

- (a) Any handler may handle inshell pecans within the production area free of the requirements of this part if such pecans are handled in quantities not exceeding 1,000 inshell pounds during any fiscal year.
- (b) Any handler may handle shelled pecans within the production area free of the requirements of this part if such pecans are handled in quantities not exceeding 500 shelled pounds during any fiscal year.
- (c) Mail order sales are not exempt sales under this part.
- (d) The Council, with the approval of the Secretary, may establish such rules, regulations, and safeguards, and require such reports, certifications, and other conditions, as are necessary to ensure compliance with this part.

§ 986.87 Compliance.

Except as provided in this subpart, no handler shall handle pecans, the handling of which has been prohibited by the Secretary in accordance with provisions of this part, or the rules and regulations thereunder.

§ 986.88 Duration of immunities.

The benefits, privileges, and immunities conferred by virtue of this part shall cease upon termination hereof, except with respect to acts done under and during the existence of this part.

§ 986.89 Separability.

If any provision of this part is declared invalid, or the applicability thereof to any person, circumstance, or thing is held invalid, the validity of the remaining provisions and the applicability thereof to any other person, circumstance, or thing shall not be affected thereby.

§ 986.90 Derogation.

Nothing contained in this part is or shall be construed to be in derogation of, or in modification of, the rights of the Secretary or of the United States to exercise any powers granted by the Act or otherwise, or, in accordance with such powers, to act in the premises whenever such action is deemed advisable.

§ 986.91 Liability.

No member or alternate of the Council nor any employee or agent thereof, shall be held personally responsible, either individually or jointly with others, in any way whatsoever, to any party under this part or to any other person for errors in judgment, mistakes, or other acts, either of commission or omission, as such member, alternate, agent or employee, except for acts of dishonesty, willful misconduct, or gross negligence. The Council may purchase liability insurance for its members and officers.

§ 986.92 Agents.

The Secretary may name, by designation in writing, any person, including any officer or employee of the USDA or the United States to act as their agent or representative in connection with any of the provisions of this part.

§ 986.93 Effective time.

The provisions of this part and of any amendment thereto shall become effective at such time as the Secretary may declare, and shall continue in force until terminated in one of the ways specified in § 986.94.

§ 986.94 Termination.

- (a) The Secretary may at any time terminate this part.
- (b) The Secretary shall terminate or suspend the operation of any or all of the provisions of this part whenever he or she finds that such operation obstructs or does not tend to effectuate the declared policy of the Act.
- (c) The Secretary shall terminate the provisions of this part applicable to pecans for market or pecans for handling at the end of any fiscal year whenever the Secretary finds, by referendum or otherwise, that such termination is favored by a majority of growers; *Provided*, That such majority of growers has produced more than 50 percent of the volume of pecans in the production area during such fiscal year. Such termination shall be effective only if announced on or before the last day of the then current fiscal year.
- (d) The Secretary shall conduct a referendum within every five-year period beginning from the implementation of this part, to ascertain whether continuance of the provisions of this part applicable to pecans are favored by two-thirds by number or volume of growers voting in the referendum. The Secretary may terminate the provisions of this part at the end of any fiscal year in which the Secretary has found that continuance of this part is not favored by growers who, during an appropriate period of time determined by the Secretary, have been engaged in the production of pecans in the production area: *Provided*, That termination of this part shall be effective only if announced on or before the last day of the then current fiscal year.

- (e) The provisions of this part shall, in any event, terminate whenever the provisions of the Act authorizing them cease to be in effect.

§ 986.95 Proceedings after termination.

- (a) Upon the termination of this part, the Council members serving shall continue as joint trustees for the purpose of liquidating all funds and property then in the possession or under the control of the Council, including claims for any funds unpaid or property not delivered at the time of such termination.
- (b) The joint trustees shall continue in such capacity until discharged by the Secretary; from time to time accounting for all receipts and disbursements; delivering all funds and property on hand, together with all books and records of the Council and of the joint trustees to such person as the Secretary shall direct; and, upon the request of the Secretary, executing such assignments or other instruments necessary and appropriate to vest in such person full title and right to all of the funds, property, or claims vested in the Council or in said joint trustees.
- (c) Any funds collected pursuant to this part and held by such joint trustees or such person over and above the amounts necessary to meet outstanding obligations and the expenses necessarily incurred by the joint trustees or such other person in the performance of their duties under this subpart, as soon as practicable after the termination hereof, shall be returned to the handlers pro rata in proportion to their contributions thereto.
- (d) Any person to whom funds, property, or claims have been transferred or delivered by the Council, upon direction of the Secretary, as provided in this part, shall be subject to the same obligations and duties with respect to said funds, property, or claims as are imposed upon said joint trustees.

§ 986.96 Amendments.

Amendments to this part may be proposed from time to time by the Council or by the Secretary.

§ 986.97 Counterparts.

Handlers may sign an agreement with the Secretary indicating their support for this marketing order. This agreement may be executed in multiple counterparts by each handler. If more than fifty percent of the handlers, weighted by the volume of pecans handled during an appropriate period of time determined by the Secretary, enter into such an agreement, then a marketing agreement shall exist for the pecans marketing order. This marketing agreement shall not alter the terms of this part. Upon the termination of this part, the marketing agreement has no further force or effect.

§ 986.98 Additional parties.

After this part becomes effective, any handler may become a party to the marketing agreement if a counterpart is executed by the handler and delivered to the Secretary.

§ 986.99 Order with marketing agreement.

Each signatory handler hereby requests the Secretary to issue, pursuant to the Act, an order for regulating the handling of pecans in the same manner as is provided for in this agreement.

Subpart B—Administrative Provisions

§ 986.161 Assessment rate.

On and after October 1, 2021, assessment rates of \$0.01 per pound for pecans classified as improved, \$0.00 per pound for pecans classified as native and seedling, and \$0.00 per pound for pecans classified as substandard pecans are established.

[87 FR 22110, Apr. 14, 2022]

§ 986.162 Inter-handler transfers.

- (a) Inter-handler transfers of inshell pecans, pursuant to § 986.62, shall be reported to the Council on APC Form 4. Handlers shall file reports by the tenth day of the month following the first transfer between two handlers. Should the tenth day of the month fall on a weekend or holiday, reports are due by the first business day following the tenth day of the month. This report must be renewed each fiscal year. The report shall contain the following information:
 - (1) The fiscal year covered by the report;
 - (2) The names and signatures for both the transferring and receiving handler; and
 - (3) Handler assuming the reporting and assessment obligations on the pecans transferred.
- (b) [Reserved]

[85 FR 19654, Apr. 8, 2020]

§ 986.175 Handler inventory.

- (a) Handlers shall submit to the Council a year-end inventory report following August 31 each fiscal year. Handlers shall file such reports by September 10. Should September 10 fall on a weekend, reports are due by the first business day following September 10. Such reports shall be reported to the Council on APC Form 5 and include:
 - (1) The name and address of the handler;
 - (2) The total weight and type of inshell pecans in inventory, regardless of country of origin;
 - (3) The total weight and type of shelled pecans in inventory, regardless of country of origin;
 - (4) The total weight and type of inshell pecans committed, not shipped, for export and domestic shipments, and any uncommitted inventory, regardless of country of origin;
 - (5) The total weight and type of shelled pecans committed, not shipped, for export and domestic shipments, and any uncommitted inventory, regardless of country of origin;
 - (6) The combined total inventory for inshell and shelled pecans calculated on an inshell basis, and combined weight committed, not shipped, for exports and domestic shipments, and any uncommitted inventory;
 - (7) Total weight and type of domestic pecans handled for the fiscal year;
 - (8) Total assessments owed, assessments paid to date, and remaining assessments due to be paid by the due date of the year-end inventory report for the fiscal year;

- (9) The average price paid for all inshell pecans purchased during the fiscal year regardless of how the pecans are handled, including pecans from outside the production area; and
- (10) The average yield of shelled pecans per pound of inshell pecans shelled during the fiscal year.

(b) [Reserved]

[82 FR 56155, Nov. 28, 2017, as amended at 84 FR 8411, Mar. 8, 2019; 85 FR 19654, Apr. 8, 2020]

§ 986.177 Reports of pecans received by handlers.

- (a) **Summary report.** Handlers shall submit to the Council, by the tenth day of the month, a summary report of inshell domestic pecans received, and all shipments, inventory, and committed inventory for pecans following the month of activity. Should the tenth day of the month fall on a weekend or holiday, reports are due by the first business day following the tenth day of the month. The report shall be submitted to the Council on APC Form 1 and contain the following information:
 - (1) The name and address of the handler;
 - (2) The month covered by the report;
 - (3) The total weight and type of inshell pecans received during the reporting period;
 - (4) The total weight and type of inshell pecans received year to date;
 - (5) Assessments due on pecans received during the reporting period to be paid by the due date of the report;
 - (6) The weight of all shipments of pecans, inshell and shelled, and inter-handler transfers shipped and received during the reporting period;
 - (7) The weight of all shipments of pecans, inshell and shelled, and inter-handler transfers shipped and received in the previous month and year to date;
 - (8) Total inventory held by handler;
 - (9) All the inventory committed (pecans not shipped, but sold or otherwise obligated) whether for domestic sale or export; and,
 - (10) The weight of all shelled or inshell pecans under contract for purchase from other handlers.
- (b) **Pecans purchased outside the United States and inshell pecans exported to Mexico for shelling and returned to the United States as shelled meats.** Handlers shall submit to the Council, by the tenth day of the month following the month of activity, a summary report of shelled and inshell pecans imported during the preceding month. Should the tenth day of the month fall on a weekend or holiday, reports are due by the first business day following the tenth day of the month. The report shall be submitted to the Council on APC Form 2 and contain the following information:
 - (1) The name and address of the handler;
 - (2) The month covered by the report;
 - (3) The date the pecans were imported;
 - (4) The country of origin;

- (5) The total weight of shelled and inshell pecans received, and the weight by variety for improved pecans received;
- (6) The weight of inshell pecans exported to Mexico for shelling;
- (7) The date shelled pecans returned to the United States after shelling in Mexico;
- (8) The weight of shelled pecans returned to the United States after shelling in Mexico; and
- (9) The total weight of inshell pecans exported to Mexico for shelling, and shelled pecans returned from Mexico, year to date.

[83 FR 7361, Feb. 21, 2018, as amended at 85 FR 19654, Apr. 8, 2020]

§ 986.178 Other reports.

- (a) **Exports by country of destination.** Handlers shall submit to the Council, by the tenth day of the month following the month of shipment, a report of exports. Should the tenth day of the month fall on a weekend or holiday, reports are due by the first business day following the tenth day of the month. The report shall be reported to the Council on APC Form 3 and contain the following information:
 - (1) The name and address of the handler;
 - (2) The month covered by the report;
 - (3) The total weight of pecans shipped for export, whether inshell, shelled, or substandard during the reporting period;
 - (4) The total weight of pecans shipped for export, whether inshell, shelled, or substandard during the previous period and year to date; and,
 - (5) The destination(s) of such exports.
- (b) **Exports by country of destination.** Handlers shall submit to the Council, by the tenth day of the month following the month of shipment, a report of exports. Should the tenth day of the month fall on a weekend or holiday, reports are due by the first business day following the tenth day of the month. The report shall be reported to the Council on APC Form 3 and contain the following information:
 - (1) The name and address of the handler;
 - (2) The month covered by the report;
 - (3) The total weight of pecans shipped for export, whether inshell, shelled, or substandard during the reporting period;
 - (4) The total weight of pecans shipped for export, whether inshell, shelled, or substandard during the previous period and year to date; and,
 - (5) The destination(s) of such exports.
- (c) **Inshell pecans exported to Mexico for shelling and returned to the United States as shelled meats.** Handlers shall submit to the Council, by the tenth day of the month following the month of shipment, a report of all inshell pecans exported to Mexico for shelling and returned to the United States as shelled pecans. Should the tenth day of the month fall on a weekend or holiday, reports are due by the first business day following the tenth day of the month. The report shall be submitted to the Council on APC Form 5 and contain the following information:

- (1) The name and address of the handler;
- (2) The month covered by the report;
- (3) The date of inshell shipment(s);
- (4) The weight of pecans exported for shelling;
- (5) The date shelled pecans returned to the United States after shelling;
- (6) The weight of shelled pecans returned to the United States after shelling; and
- (7) The total weight of inshell pecans exported to Mexico for shelling, and shelled pecans returned from Mexico, year to date.

[83 FR 7361, Feb. 21, 2018, as amended at 85 FR 19655, Apr. 8, 2020]

**BYLAWS
American Pecan Council**

USDA Marketing Order No. 986

Article I - Name, State of Incorporation & Headquarters

Section 1. Name. The name of the organization shall be the American Pecan Council, authorized under the Agricultural Act of 1937, as amended, herein referred to as the "Council."

Section 2. State of Incorporation. The Council is a Texas, not-for-profit corporation incorporated under the name "Federal Marketing Order American Pecan Council" and operating under the Texas fictitious name certificate: "American Pecan Council."

Section 3. Location. The Council's headquarters shall be located in the Dallas Metropolitan area or at such other place as the Council shall determine.

Article II - Purposes Legal Authority & Authority of Bylaws

Section 1. Purposes. The Council's purposes (the "Purposes") are those set forth in 7 C.F.R. Part 986, the Final Rule published in the Federal Register, Vol. 81, No. 150 on August 4, 2016, as amended from time to time (the "Order"). Only Purposes set out in the Order, or any amendment thereto, may be pursued by the Council or the staff serving the Council.

Section 2. Legal Authority. The Order operates under the authority of the Agricultural Marketing Act of 1937, as amended (the "Act"). The Council also operates under the Texas Non-Profit Corporations Act, as amended (the "Texas Non-Profit Corporations Act").

Section 3. Authority of Bylaws. These Bylaws of the Council are subject to the provisions of the Act, the Order, and the Texas Non-Profit Corporations Act. To the extent that these Bylaws of the Council conflicts with any of the Act, the Order or the Texas Non-Profit Corporations Act, those authorities shall control.

**Article III - Council Membership, Council Alternates, Selection, Term,
Eligibility and Vacancies related to Members and Alternates**

Section 1. Council Membership. The membership of the Council Members shall be as set forth in 7 C.F.R. §986.45. Council members shall be referred to as "Members" or "Member."

Section 2. Council Alternates. The membership of the Council Alternates shall be as set forth in 7 C.F.R. §986.47. Council Alternates shall be referred to as "Alternates."

Section 3. Selection of Members and Affiliates. The selection of Members and Alternates shall be done as set forth in 7 C.F.R. §986.46 and .49.

Section 4. Term of Office. The term of the office of Members and Affiliates shall be as set forth in 7 C.F.R. §986.50.

Section 5. Eligibility to Serve as a Member or Alternate. All Members and Alternates shall not be eligible to serve on the Council unless they qualify to serve pursuant to 7 C.F.R. §986.48.

Section 6. Vacancy on the Council. Any vacancy on the Council of a Member or ~~fill~~ Alternate is defined by and may be filled by the vote of the Council pursuant to 7 C.F.R. §986.51.

Article IV – Committees

Section 1. Authority to Appoint Committees, Charters. The Council may create and appoint or empower the Chairman to appoint from its Members, Alternates to Committees of the Council in order for the Council to more efficiently and effectively fulfill its purposes, and may assign to standing Committees such administrative duties that the Council may deem proper, and, to special subcommittees such specific matters as needed to be investigated and a report thereon made to the Council. Special sub-committees shall cease to exist upon completion of their assignments. The Council may appoint or empower the Chairman to appoint consultants to serve on either standing or special subcommittees. Neither a standing nor a special subcommittee nor member thereof shall have the authority to commit the Council unless such authority has been duly delegated by the Council. The Chair will be an ex-officio member of each Committee created by the Council but will not have a vote on such Committees. Chairs of standing Committees shall be voting members of the council.

Section 2. Initial Council Committees. The Council hereby creates the following Committees:

Governance

Industry Relations & Grower Communications

Marketing Promotions

Grades and Standardization
Research

Other Council Committees may be created by the Council from time to time as the Council determines.

Section 3. Authority for Committees to Recommend Action to the Council. A Committee of the Council, acting pursuant to its Charter, shall submit to the Council all matters on which two-thirds of such Committee has voted to send to the Council for its consideration. All matters approved by a Committee of the Council shall not be the act of the Council until approved by a vote of the Council

Article V - Officers and Duties

Section 1. Officers. The officers of the Council shall consist of Chair, Vice Chair, Secretary and Treasurer.

Section 2. Chair. The duties of the Chair shall be (1) preside at all meetings of the Council; (2) call special meetings of the Council when deemed necessary; (3) perform all acts and duties usually incidental to, and required of the presiding officer, and (4) be an ex-officio member of all committees.

Section 3. Vice-Chair. The duties of the Vice-Chair shall be to preside in place of the Chair in the absence, disqualification, disability, or at the direction of the Chair.

Section 4. Secretary. The duties of the Secretary shall be (1) to keep or cause to be kept, a complete record of the proceedings of all meetings of the Council, (2) to review and approve all meeting minutes prior to mailing to other Members and Alternates, and (3) to attest to all documents and instruments on behalf of the Council.

Section 5. Treasurer. The duties of the Treasurer shall be to (1) prepare or cause to be prepared annually a budget for the Council; (2) to collect or cause to be collected and accounted for all assessments and receivables established by the Council; (3) to disburse or cause to be disbursed and account for all expenses incurred by the Council; (4) to produce or cause to be produced periodic financial reports for the Council and the Secretary of Agriculture; (5) to review any and all financial records prior to being presented for Council approval, and (6) to cause the financial records of the Council to be audited by an independent auditing firm at least annually.

Section 6. Election of Officers. The officers shall be elected by the Members of the Committee by majority vote and shall serve for two (2) years or until their successors are elected. An Officer's term of office normally begin at the annual meeting (last regular meeting of every fiscal year), and continue until their successors have been elected.

VI. – The Executive Director/CEO

Section 1. Employment. The Board of Directors shall appoint an Executive Director/CEO of the Council, determine the Executive Director's compensation, prescribe the Executive Director's duties, and the terms of the Executive Director's employment.

Section 2. Duties of the Executive Director. The Executive Director/CEO shall be a direct representative of the Board in the management of the Council; shall be the spokesperson for the organization; shall effectively communicate the vision and mission of the organization to the community; shall motivate the various Boards and staff to implement the vision of the organization; shall provide leadership to carry out the organizational strategy; shall be responsible for the day-to-day financial activities of the Council; shall manage the daily affairs of the Council, direct the work and employees of the Council, subject to, and in accordance with, the directions of the Board of Directors; shall prepare budgets of the expense for the approval of the Board of Directors; and shall be authorized to incur expenses in accordance within the approved budget, or as directed by the Board of Directors. These responsibilities may be modified in the employment contract between the Executive Director/CEO and the Council.

Section 3. Hiring of Staff. The Executive Director/CEO shall have the power to hire and terminate employees of the Council, within the guidelines set by the Board of Directors and the budget.

Section 4. Reporting to the Council. The Executive Director/CEO shall from time to time make reports of the work and affairs of the Council to the Chairman, and Vice Chairman.

Article VII - Council Meetings

Section 1. Regular Meetings. Regular meetings shall be held during February/March and July/August of each fiscal year. The February/March meeting is scheduled for the purpose of determining the current fiscal year's crop in order to begin to formulate a marketing policy for the next fiscal year and such other purposes as the Chair determines. The July/August meeting is scheduled for the purpose of: finalizing the next fiscal year's marketing policy; preparing the next fiscal year's budget of income and expenses; calculating the next fiscal year's proposed assessment rates; determining the amount of any carry over funds from one fiscal year to the next to be retained by the Council (if any); and such other purposes as the Chair determines.

Section 2. Special Meetings. Special meetings may be called by the Chair or shall be called upon the written request of three or more members of the Council. The purpose of the meeting, date, time, and location shall be stated in such request and such request for Special Meeting shall be made at least two (2) days before the requested meeting.

Section 3. Telephone and other Means of Communication. Members and Alternates may attend meetings by telephone or other means of communication. Council meetings may also be held by telephone, or other means of communication. Any votes cast by Members at meetings when they are not physically present at the meeting shall be confirmed promptly in writing.

Section 4. Notice to Secretary. The Council shall give the Secretary, or his appointees notice of all meetings at the same time such meeting notice is given to Members and Alternates.

Section 5. Quorum. A quorum shall consist of twelve (12) Members.

Section 6. Order of Business. The regular order of business of the Council, unless otherwise determined by the Chair shall be as follows:

- | | |
|----------------------------------|--------------------------|
| (1) Call to Order | (6) Report of Committees |
| (2) Roll Call | (7) Unfinished Business |
| (3) Approval of Minutes | (8) New Business |
| (4) Report of Executive Director | (9) Adjournment |
| (5) Report of Officers | |

Section 7. Voting. The vote of a majority of Members present at a meeting (in person or by telephone or other means of communication) at which there is quorum shall constitute the act of the Council. Certain matters requiring a super majority, two-thirds (12 Members), or unanimous vote of the Council are listed in 7 C.F.R. §986.SS(c)(1) and (c)(2).

Section 8. Member Absence. In the absence of any Member, the Alternate Member for the vacant seat shall act in the place and stead of such Member. If both a Member and the Alternate for the Member's seat are both unable to attend a Council meeting, another Alternate representing the same group (Grower, Sheller) may be appointed by the Chair to serve for such meeting. See 7 C.F.R. §986.47.

Article VIII - Administration

Section 1. Executive Director. The executive director, by direction of the Council, shall be responsible to the Council for the proper administration of all Purposes, policies and actions that the Council adopts and undertakes; for the proper performance of all duties on behalf of the Council; subject to the oversight by the Treasurer, shall be empowered to sign checks for the Council's funds to cover operations of the Council and to invest such excess funds into insured interest bearing accounts; and perform such other financial and operational duties as may be designated by the Council.

Article IX - Expenses

Section 1. Members and Alternates. The Members and Alternates of the Council shall be reimbursed for their reasonable and necessary expenses incurred by them only in the

performance of their duties. A receipt for commercial forms of travel, lodging, meals and all other out of pocket expenses shall be required as part of any claim for reimbursement.

Section 2. Travel Expenses. Travel expenses that will be reimbursed are confined to those expenses essential to the transaction of business of the Council. Mileage shall be reimbursed at the Federal allowable rate or the actual transportation charges paid to a common carrier at the time of travel.

Article X - Amendments

Section 1. Bylaws Changes and Notice. Bylaws and Policies can be amended and adopted at any regular meeting of the Council. Prior written notification of any proposed changes to the Bylaws shall be given to all Members and Alternates prior to any Council meeting in which proposed Bylaw changes are on the agenda to be considered by the Council.

Section 2. Effective Date of Bylaw Changes. Amendments to the Bylaws shall take effect at the adjournment of the meeting at which they are adopted unless otherwise provided.

Article XI - Policies

The Council may adopt Policies of the Council from time to time, upon a two-thirds Member vote (12 members) that shall have the same authority as Council Bylaws.

Adopted: February 23, 2017

Amended: August 30, 2018

U.S. DEPARTMENT OF AGRICULTURE
AGRICULTURAL MARKETING SERVICE
SPECIALTY CROPS PROGRAM

**CERTIFIED ORGANIC HANDLER APPLICATION
FOR EXEMPTION FROM MARKET PROMOTION ASSESSMENTS
PAID UNDER FEDERAL MARKETING ORDERS**

SECTION 1 - HANDLER APPLICATION

The information on this form is required to make a determination concerning a handler's eligibility for exemption from the portion of a Federal marketing order assessment applicable to marketing promotion, including paid advertising. PLEASE SUBMIT THIS APPLICATION TO THE APPROPRIATE MARKETING COMMITTEE/BOARD/COUNCIL.

Date: _____

To: _____ (Committee/Board/Council)

Applicant's First and Last Name: _____

Company: _____

Mailing Address: _____

Telephone No.: _____ Fax No.: _____

Email Address (*optional*): _____

In order to be exempt, the above-named applicant/company must meet all of the following (*please check*):

- ☐ Maintain a valid organic certificate issued under the Organic Foods Production Act of 1990 (7 U.S.C. 6501 et seq.) (OFPA) and the National Organic Program (NOP).
- ☐ Handle or market organic products eligible to be labeled 'organic' or '100 percent organic' under the NOP.
- ☐ Be subject to assessments under the Federal marketing order program for which this exemption is requested.

Please indicate the number of organic certified producers for whom you handle or market, and include yourself in the total if you handle or market your own production: _____

Attach a copy of your certificate of organic operation and all applicable producer certificates of organic operation provided by a USDA-accredited certifying agent under the OFPA and the NOP.

I certify that, at the signing of this statement and for the signed date, the above is true:

Signature

Date

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information is 0581-0216. The time required to complete this information collection is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

SECTION 2 - COMMITTEE/BOARD/COUNCIL NOTIFICATION OF EXEMPTION *(completed by Committee/Board)*

Your application dated _____, 20____, requesting exemption from marketing promotion assessments, including paid advertising, as specified under the provisions of § 900.700 has been:

- ☐ Approved, subject to compliance with § 900.700 regulations for the 2024 through 2025 assessment period.
- ☐ Disapproved (attached are the reasons for disapproval).

Marketing Committee/Board/Council Representative Signature

Date

*The approved applicant continues to be obligated to pay assessments that are associated with any agricultural products that do not qualify for an exemption under this approval. In addition, for exempted products, the approved applicant continues to be obligated to pay the portion of the assessment associated with the other authorized activities under the Federal marketing order other than marketing promotion, including paid advertising. The approved applicant should contact the appropriate committee/board/council to receive more information regarding the payment of assessment obligations that are not exempt as a result of this approval. A copy of the regulations contained in § 900.700 is available from the committee/board/council upon request.

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English. To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at http://www.ascr.usda.gov/complaint_filing_cust.html and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by: (1) mail: U.S. Department of Agriculture Office of the Assistant Secretary for Civil Rights 1400 Independence Avenue, SW Washington, D.C. 20250-9410; (2) fax: (202) 690-7442; or (3) email: program.intake@usda.gov. USDA is an equal opportunity provider, employer, and lender.